DOCUMENT RESUME

ED 348 904 HE 025 725

TITLE Assessing Reauthorization: The Provisions of the Conference Report on S.1150.
INSTITUTION National Association of Student Financial Aid Administrators, Washington, D.C.
PUB DATE Jul 92
NOTE 54p.
AVAILABLE FROM National Association of Student Financial Aid Administrators, 1920 L. Street N.W., Suite 200, Washington, DC 20036.
PUB TYPE Reports - General (140) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS *Educational Legislation; Federal Aid; *Federal Legislation; Financial Support; Graduate Study; Higher Education; *Income Contingent Loans; Minority Groups; Professional Education; *Student Financial Aid; *Student Loan Programs; Undergraduate Study
IDENTIFIERS Higher Education Act 1992; *Higher Education Act Title IV; *Higher Education Act Title IX; Pell Grant Program; Perkins Loan Program; Reauthorization Legislation

ABSTRACT

This document contains information from the joint House and Senate conference concerning the provisions of S. 1150, the reauthorization of the Higher Education Act, specifically the material is organized in sequential order as the provisions are found in the legislation, using key word identifiers and additional explanatory narrative. An in-depth examination of the Title IV programs of student assistance is included. These cover grants to students, federal family education loans, federal work-study programs, federal direct loan demonstration program, income contingent loan demonstration program, federal Perkins loans, need analysis, general provisions, and program integrity. A review of the graduate programs covered by Title IX covers grants to encourage women and minority participation in graduate education, Patricia Roberts Harris fellowship programs, Jacob K. Javits Fellows program, graduate assistance in areas of national need, faculty development fellowship program, assistance for training in the legal profession, and law school clinical experience programs. In addition, a listing of the major controversial Title IV provisions that were not adopted by conferees is provided. (GLR)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED348904

Assessing Reauthorization:

The Provisions of the Conference Report on S.1150

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
NASFAA
M. McLean
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

July 1992

HE 025 725

N • A • S • F • A • A
National Association of Student Financial Aid Administrators

BEST COPY AVAILABLE

N·A·S·F·A·A

July 1992

Dear NASFAA Member:

This document contains information prepared by NASFAA staff to assist you in understanding the provisions of S.1150, the recently approved bill reauthorizing the Higher Education Act. This material is primarily organized in sequential order as provisions are found in the legislation, using key word identifiers and additional explanatory narrative. An in-depth examination of the title IV programs is included, as well as an abbreviated review of the graduate programs contained in title IX.

This information summarizes the provisions contained in the conference report; we have taken this approach rather than to reprint the complete text of the bill at this time. It is, however, NASFAA's intention to revise our prior edition of the title IV law when this bill is enacted and to publish and distribute to NASFAA members the updated version.

There were a number of important or controversial provisions considered in both the House and Senate bills throughout the reauthorization process that were not included in the final legislation. To aid your identification of these issues, a listing of the major items in this category is included at the end of this document.

Effective dates vary and are indicated throughout. In some cases, the effective date may be the date of enactment (the date the bill is signed by the President into law). If a date is not specified, you may assume the effective date is October 1, 1992.

We hope this information will be helpful to you. If you have questions or comments after your review of this document, please contact Marty Guthrie, Ken McInerney, or Larry Zaglaniczny on the NASFAA staff.

Sincerely,

Dallas Martin
President

NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS
1920 L STREET N.W. SUITE 200 WASHINGTON, D.C. 20036 202-785-0453

Assessing Reauthorization:

The Provisions of the Conference Report on S.1150

July 1992

Copyright © 1992 by National Association of Student Financial Aid Administrators.
All rights reserved. Printed in the United States of America.

TABLE OF CONTENTS

TITLE IV--STUDENT ASSISTANCE

PART A--GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION 1
Subpart 1--Federal Pell Grant Program 1
Subpart 2--Federal Early Outreach and Student Support Services Programs 2
Federal TRIO Programs 2
National Early Intervention Scholarship and Partnership Program 2
Presidential Access Scholarships 4
Model Program Community Partnership and Counseling Grants 4
Public Information 5
National Student Savings Demonstration Program 5
Pre-eligibility Form 5
Technical Assistance for Teachers and Counselors 5
Subpart 3--Federal Supplemental Educational Opportunity Grant Program 6
Subpart 4--State Student Incentive Grant Program 6
Subpart 5--Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork (HEP/CAMP) 7
Subpart 6--Robert C. Byrd Honors Scholarship Program 7
Subpart 7--Assistance to Institutions of Higher Education 7
Subpart 8--Special Child Care Services for Disadvantaged College Students 7

PART B--FEDERAL FAMILY EDUCATION LOANS 7

PART C--FEDERAL WORK-STUDY PROGRAMS 17

PART D--FEDERAL DIRECT LOAN DEMONSTRATION PROGRAM 18
PART D--INCOME CONTINGENT LOAN DEMONSTRATION PROGRAM 20

PART E--FEDERAL PERKINS LOANS 20

PART F--NEED ANALYSIS 23

PART G--GENERAL PROVISIONS 26

PART H--PROGRAM INTEGRITY 36

TABLE OF CONTENTS (continued)

TITLE IX--GRADUATE PROGRAMS
PART A--GRANTS TO INSTITUTIONS AND CONSORTIA TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION 41

PART B--PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAMS 41

PART C--JACOB K. JAVITS FELLOWS PROGRAM 43

PART D--GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED 43

PART E--FACULTY DEVELOPMENT FELLOWSHIP PROGRAM 44

PART F--ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION 44

PART G--LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS 45

TITLE IV PROGRAM CHANGES NOT ADOPTED BY CONFEREES 46

TITLE IV--STUDENT ASSISTANCE

PART A--GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

♦ **Effective Date.** Except as otherwise provided, the changes in Part A of Title IV take effect on the date of enactment.

Subpart 1--Federal Pell Grant Program.

♦ **Effective date.** Changes made apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993.

♦ **Name.** The program is renamed *Federal Pell Grants* and established as Subpart 1 of Part A of Title IV.

♦ **Authorization.** The Pell Grant Program authorization is extended through September 30, 1998. The authorized maximum grant is increased as follows: $3,700 for academic year 1993-94, $3,900 for academic year 1994-95, $4,100 for academic year 1995-96, $4,300 for academic year 1996-97, $4,500 for academic year 1997-98.

♦ **Minimum grant.** The minimum grant is increased to $400; however, students who are eligible for a Pell Grant that is greater than or equal to $200, but less than $400 will receive an award of $400.

♦ **General award rule.** Award amounts are equal to the maximum award minus the EFC.

♦ **Award rules for maximum awards greater than $2,400.** The Pell Grant formula provides that, when the maximum grant is greater than $2,400, any increases above that amount would be divided equally between tuition and an education allowance. If the maximum Pell Grant is in excess of $2,400, the amount of a student's award would be $2,400 plus one-half of the amount of the difference between $2,400 and the maximum award, plus the lesser of (1) the remaining one-half of the difference, OR, (2) the sum of the student's tuition and $750 if the student has dependent care expenses or disability related expenses.

♦ **Award rules for maximum awards of $2,400 or less.** The Statement of Managers indicates that when the Pell Grant maximum award is less than or equal to $2,400, the current award rules are used.

♦ **Exception to maximum grant amount.** The Secretary may grant an institution authority to award two Pell Grants in an academic year on a case-by-case basis provided that: the student enrolls full-time in an baccalaureate program of study of two years or more (measured in credit hours) at an eligible institution; AND the student completes course work toward completion of a bachelor's degree that exceeds the requirements for a full academic year as defined by the institution.

♦ **Study abroad maximum award amounts.** For a student enrolled at an eligible institution who participates in a study abroad program with reasonable program costs greater than the cost of attendance at the student's home institution, the Secretary shall allow an increased award up to the maximum award to account for such increased study abroad costs. A financial aid administration at the home institution may use the cost of the study abroad program, rather than the home institution's cost to determine the student's cost of attendance.

♦ **Incarcerated students.** Pell Grant eligibility is extended to eligible incarcerated students in the maximum amount of tuition and required fees and, if required, books and supplies, provided that such grants are used to supplement, not supplant, the state's fiscal year 1988 level of funding for postsecondary education prisoner funding. Inmates serving a sentence of death or a life sentence without parole are ineligible.

♦ **Less-than-half-time student eligibility.** Pell Grant eligibility is extended to all less-than-half-time students.

♦ **Child care or disability expense allowance.** A $750 allowance for child care or disability related expenses may be added to the tuition component of the Pell Grant award rules when the maximum award is greater than $2,400.

♦ **Period of eligibility.** Otherwise eligible students may receive Pell Grants for the period of time necessary to complete a first undergraduate baccalaureate degree without regard to any academic year limitation.

♦ **Student Aid Report requirement.** The requirement is eliminated that a student must present a Student Aid Report (SAR) document in order to receive a Pell Grant. A student's expected family contribution is required to be distributed by any processor as part of the regular output document.

♦ **Insufficient appropriations.** If the Pell Grant Program faces an insufficiency in appropriations, the Secretary is to report to the Congress the amount of any funding shortfalls. The Secretary is then free to develop any means to rectify such shortfall. No linear reduction schedule mandated in the law.

♦ **Treatment of recipients.** Pell Grant recipients are not considered grantees for the purposes of the drug-free workplace requirements.

The separate Pell Grant need analysis methodology is eliminated; the single need analysis methodology found in Part F is used to calculate the expected family contribution that will be used; the award rules specified above will be used to determine a student's Pell Grant award amount.

Subpart 2--Federal Early Outreach and Student Support Services

♦ **General Information.** The TRIO Programs and a new program authorization for federal outreach and early intervention activities are placed in Subpart 2 from TRIO's prior designation in Subpart 4.

Chapter 1--Federal TRIO Programs

♦ **Authorization.** The Federal TRIO Programs (Talent Search, Upward Bound, Student Support Services, Postbaccalaureate Achievement Program, Educational Opportunity Centers, and Staff Development Activities) are reauthorized for five years at $650 million in FY-93 and such sums in the out-years.

♦ **McNair Program.** The Ronald E. McNair Postbaccalaureate Achievement Program which provides opportunities designed for effective preparation for doctoral study through research opportunities, summer internships, seminars, tutoring, academic counseling, mentoring, and activities designed to assist participating students in securing admission to and financial assistance for enrollment in graduate programs is reauthorized for five years with no less than $11 million reserved from the TRIO appropriation for McNair activities. Requires not less than two-thirds of the individuals selected for the program are low-income and first-generation college students.

Chapter 2--National Early Intervention Scholarship and Partnership Program

♦ **Activities authorized.** Establishes a program that encourages states, (1) to provide or maintain a guarantee to eligible low-income students who obtain a high school diploma, or its equivalent, of the financial assistance necessary to permit their enrollment at a postsecondary education institution; (2) Grants incentives to states, in cooperation with local education agencies, postsecondary institutions, community organizations, and business to provide additional counseling mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary students who are at risk of dropping out of school and to provide information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

♦ **State plan.** In order to receive a grant, states are required to submit to the Secretary a plan for carrying out this program. The plan is required to contain both an early intervention and a scholarship component together with a description of activities to be implemented. States are required from state, local, or private funds to match not less than 50 percent of the cost of the program and such funds will supplement, and not supplant, funds currently expended for similar existing state and local programs.

♦ **Early intervention.** A state must demonstrate, to the satisfaction of the Secretary, that it will provide comprehensive mentoring, counseling, outreach, and supportive services to participating students enrolled in preschool to grade 12, including financial aid counseling.

♦ **Allowable providers.** Early intervention activities may be provided by community-based organizations, schools, postsecondary institutions, public and private agencies, non-profit and philanthropic organizations, businesses, TRIO programs, and other organizations the Secretary deems appropriate.

♦ **Permissible activities.** Examples of acceptable activities to meet the law's requirements include the following: (1) Providing eligible students with a continuing system of mentoring and advising that is coordinated with federal and state community service initiatives and may include support services such as after school and summer tutoring, summer jobs and career mentoring, and academic counseling. (2) Each student will enter into an agreement pledging to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress in exchange for tuition assistance for a time period established by the state. (3) Provide activities designed to ensure high school completion and college enrollment of at-risk children. And, (4) Provide for pre-freshman summer programs. In administering the early intervention component of the state plan, priority is required for any student in preschool through grade 12 who is eligible to be counted as attending a Chapter I school, participates in the National School Lunch Program, or is from a family receiving Aid to Families with Dependent Children (AFDC).

♦ **Scholarship program.** As part of its state plan, each state is required to establish or maintain a financial assistance program and the Secretary will encourage states to ensure that the tuition assistance provided is available to eligible students for use at any eligible institution.

♦ **Maximum/Minimum grant amount.** The state shall set the maximum grant amount eligible students may receive. The minimum grant amount for each fiscal year shall not be less than the LESSER of (1) 75 percent of the average cost of attendance for an in-state student, in a four-year program of instruction at public postsecondary institutions in the state, as determined by regulations prescribed by the Secretary; OR, (2) the maximum Pell Grant funded for such fiscal year. Tuition assistance, provided by this program, is not to be considered for the purpose of awarding Title IV aid, except the total amount of Title IV aid awarded to the student cannot exceed the student's total cost of attendance.

♦ **Eligible students.** Students eligible for assistance must be (1) less than 22 years old at the time of the first grant award; (2) on or after January 1, 1993 receives a high school diploma or certificate of high school equivalence; (3) is enrolled, or accepted for enrollment, in a postsecondary education institution located in the state, except that as a state option such a grant may be portable; (4) must have participated in the state early intervention program; or, (5) states may consider students who have successfully participated in TRIO programs as eligible. The Secretary is required to ensure that each state place a priority on awarding early intervention scholarships to Pell Grant recipients.

♦ **Distribution of funds.** If the program appropriation is less than $50 million in any fiscal year, then the Secretary is required to award grants to states on a competitive basis. If the program appropriation is greater than $50 million, then the Secretary is required to award grants to states according to a formula.

♦ **Authorization.** For FY-93, $200 million is authorized for this program. However, no amount may be expended on the program, unless the appropriation for SSIG exceeds $60 million.

Chapter 3--Presidential Access Scholarships

♦ **General information.** Creates a new program, "Presidential Access Scholarships," to be awarded to students eligible to receive a Pell Grant, who have participated in a preparatory postsecondary education program, and can demonstrate academic achievement.

♦ **Amount of award.** Eligible recipients can receive an amount equal to 25 percent of the Pell Grant that the recipient is awarded for that year OR $400 whichever is greater. If funds are not available to fully fund awards for eligible recipients, then the Secretary shall pay each student a proportionately reduced award. A Presidential Access Scholarship, combined with any other Title IV assistance, may not exceed the student's cost of attendance.

♦ **Period of award.** Four academic years, or in the case of a student enrolled in an academic program requiring five years of full-time attendance, five academic years.

♦ **Eligibility of scholars.** To be eligible for this scholarship a student attending the first year of a postsecondary education program must (1) be enrolled, or accepted for enrollment, in a degree or certificate program of at least two years in length; (2) have demonstrated academic achievement and preparation by taking college preparatory level coursework in the following areas in high school: four years of English, three years of science, three years of mathematics, either three years of history OR two years of history and one year of social studies, and either two years of a foreign language OR one year of computer science and one year of a foreign language; (3) have earned a grade point average of 2.5 or higher on a scale of 4.0 in the final two years of high school; and, (4) either have participated for a minimum of 36 months in an early intervention program or rank in the top ten percent of the student's graduating class. Each eligible student desiring a scholarship will submit to the Secretary an application. In order for a student, who will be attending a year of postsecondary education, other than the student's first year, to continue to be eligible for this scholarship the student must maintain Pell Grant eligibility, PLUS maintain satisfactory progress according to the requirements of the HEA.

♦ **Eligible early intervention programs.** To meet the requirement for a 36-month period of participation in an early intervention program, participation in TRIO programs OR in the newly created Chapter 2--National Early Intervention Scholarship and Partnership Program will fulfil this requirement. Otherwise, participation in another early intervention program, regardless of the sponsorship, meets the 36-month requirement, if that program meets the requirements established by the Secretary AND is certified by the Governor as an honors scholars program. The Secretary may waive this provision for any student who was unable to participate in an early intervention program because no such program was available in their area. States must meet a number of other criteria to be eligible for the program.

♦ **Authorization of appropriations.** $200 million is authorized for FY-93 and such sums for the out-years.

Chapter 4--Model Program Community Partnership and Counseling Grants

♦ **Authorization.** Authorizes $35 million for FY-93 and such sums for the out-years for model programs to provide grants to community partnerships to provide mentoring, tutoring and support services, as well as information on colleges and available financial aid tailored to the unique needs of special populations of students.

Chapter 5--Public Information

♦ **Authorization.** Provides an authorization of $20 million for FY-93 and such sums in the out-years for two purposes: (1) The Secretary is required to award a contract to establish and maintain a computerized database of all public and private financial assistance programs. The database must be accessible to schools and libraries through either modems or toll-free telephone lines. Also, the Secretary is required to establish a toll-free information line, including access by telecommunications devices for the deaf (TDD's), to provide financial assistance information to parents, students, and other individuals, including individuals with disabilities. (2) The Secretary is authorized to enter into contracts with appropriate public agencies, non-profit private organizations, and postsecondary institutions to conduct an information program designed to broaden the early awareness of postsecondary education opportunities and to encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries.

Chapter 6--National Student Savings Demonstration Program

♦ **General information.** Authorizes the creation of a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and, thereby, reduce the loan indebtedness of college students.

♦ **Authorization.** The Secretary is authorized to award a demonstration grant to not more than five states. The amount of each grant shall be computed on the basis of a federal match in an amount equal to the initial state deposit into each student account not to exceed $50 per child, multiplied by the number of children participating in the program. The Secretary will award grants giving priority to states proposing programs that establish accounts for a child prior to the age of compulsory school attendance, that permit employers to use pre-tax income in making contributions to a child's account, and exempt the interest earned from state taxes. Each state shall apply to the Secretary and meet specified requirements. The FY-93 authorization is $10 million with such sums in the out-years.

Chapter 7--Pre-eligibility Form

♦ **Authorization.** The Secretary, to help ensure postsecondary access by providing early notice to students of their potential eligibility for financial aid, is authorized to (1) develop and process a common pre-eligibility federal financial aid form; (2) distribute and process the form free of charge to students and parents; and, (3) issue, on the basis of reported information, a pre-eligibility expected family contribution figure AND an estimate of the amount of federal and, if feasible non-federal, funds for which the student might qualify in later completing and submitting a Free Application for Federal Student Aid. The Secretary is required to widely disseminate the pre-eligibility form through post offices, other federal installations, schools, postsecondary institutions, libraries, and community-based agencies.

Chapter 8--Technical Assistance for Teachers and Counselors

♦ **Authorization.** The Secretary is authorized to award grants to local education agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, pre-college requirements, the college admissions procedure, and financial aid opportunities.

Subpart 3--Federal Supplemental Educational Opportunity Grants (SEOG)

♦ **Effective date.** The revised matching requirements apply to funds provided for award years beginning on or after July 1, 1993.

♦ **Name.** The program is renamed *Federal Supplemental Educational Opportunity Grants* and establishes it as Subpart 3 of Part A of Title IV.

♦ **Authorization.** The program authorization is extended through FY-97 with $675 million authorized for FY-93 and such sums as necessary for the succeeding four fiscal years.

♦ **Excess appropriations.** In any fiscal year in which the SEOG appropriation exceeds $700 million, not more than ten percent of the amount in excess of $700 million may be allocated by the Secretary to institutions at which 50 percent or more of their Pell Grant recipients graduate or transfer to a four-year institution.

♦ **Use of funds for nontraditional students.** A reasonable proportion of the institution's allocation must be made available to such students, IF an institution's SEOG allocation is directly or indirectly based in part on the financial need demonstrated by independent students or those attending less-than-full-time. If the total financial need of such students exceeds five percent of the need of all students attending the institution, then at least five percent of the school's allotment is to be made available to these students.

♦ **Institutional match.** The institutional matching requirement is increased to 25 percent. The Federal share may be increased if the Secretary issues regulations establishing objective criteria for making such a determination.

♦ **Return of allocated funds.** If an institution returns more than 10 percent of its SEOG allocation, its allocation for the next fiscal year will be reduced by the amount returned. The Secretary has waiver authority for specific schools if enforcement would be contrary to the interest of the program.

♦ **Recipient selection.** The current law procedures for targeting of SEOG to students who are eligible for Pell Grants are retained.

♦ **Study abroad awards.** All reasonable costs associated with study abroad programs for credit at the home institution for students enrolled at an eligible institution are to be considered in determining eligibility and such awards may exceed the specified $4,000 maximum award level by as much as $400 if such reasonable costs exceed the cost of attendance at the home institution.

♦ **Transfer of funds.** Up to 25 percent of College Work-Study Program and/or Perkins Loan Program funds may be transferred to the SEOG Program, however, SEOG funds may not be transferred to any other program.

Subpart 4--State Student Incentive Grant Program

♦ **Authorization.** The program is authorized at $105 million for FY-93 and such sums as necessary for the succeeding four fiscal years.

♦ **Maximum award.** The maximum allowable SSIG award is increased from $2,500 to $5,000.

♦ **Study abroad eligibility.** SSIG funds may be awarded to students participating in programs of study abroad that are approved for credit by the institution.

♦ **Application fees.** No student or parent shall be charged a fee that is payable to an entity other than such state for the purpose of collecting data to make a determination of financial need for recipients of the SSIG Program or for SSIG work-study jobs.

♦ **Use of funds for nontraditional students.** A reasonable proportion of the state's allocation must be made available to such students, IF the state's SSIG allocation is directly or indirectly based in part on the financial need demonstrated by independent students or those attending less-than-full-time.

Subpart 5--Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

♦ **Authorization.** The HEP/CAMP programs are reauthorized with $20 million for FY-93 and such sums in the out-years. The Reauthorization Act makes several other changes in the programs.

Subpart 6--Robert C. Byrd Honors Scholarship Program

♦ **Period of award.** Increases the period of award for Byrd Scholarships to four years and clarifies scholarships may be used at any eligible postsecondary education institution.

♦ **Allocation formula and other changes.** Changes the allocation formula so that each state would receive a proportion of the total scholarships awarded that bears the same ratio as the number of children aged 5-17 in the state bears to all such children in the nation. The requirement for a Byrd Scholar from each congressional district is repealed and replaced by a requirement for a general geographic distribution of awards within a state. There is a requirement for a minimum of ten scholarships per state. The authorization for administrative expenses is repealed. The award ceremony requirement is repealed. Finally, changes current law requiring Byrd Scholarships to be considered in the awarding of Title IV aid. The authorization is increased to $10 million in FY-93 and such sums in the out-years.

Subpart 7--Assistance to Institutions of Higher Education

♦ **Payments to Institutions of Higher Education.** This unfunded authority is repealed.

♦ **Veterans Education Outreach Program.** Program is repealed.

Subpart 8--Special Child Care Services for Disadvantaged College Students

♦ **Authorization.** Program providing grants to institutions to provide special child care services to disadvantaged students is reauthorized and funding authorization is increased to $20 million in FY-93 and such sums in the out-years.

PART B--FEDERAL FAMILY EDUCATION LOANS

♦ **General effective dates.** All changes made to Part B are effective on the date of enactment, unless otherwise noted.

♦ **Specified effective dates.** The provision creating an unsubsidized loan program is effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992.

The Stafford Program loan limit changes shall apply for loans for which the first disbursement is made on or after July 1, 1993.

Increases in Stafford Loan Program annual loan limit for full-time graduate students are effective October 1, 1993.

Proration of Stafford Loan limits by length of academic program for first-year students enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year with respect to loans for which the first disbursement is made on or after October 1, 1992.

The special allowance for lenders is effective October 1, 1992.

Changes the interest rate to students to a variable rate with a cap of 9 percent for Stafford Loans, effective for new borrowers after October 1, 1992.

Lowers the cap on SLS loan interest rates for any loan for which the first disbursement is made on or after October 1, 1993.

Lowers the cap on PLUS loan interest rates for any loan for which the first disbursement is made on or after October 1, 1993.

Graduated or income-sensitive repayment is effective for loans for which the first disbursement is made on or after July 1, 1993 to an individual who is a new borrower on the date such individual applies for a loan.

Eliminates the targeted teacher deferment and shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993 to an individual who is a new borrower on the date such individual applies for a loan.

Effective date for forbearance provision is on and after October 1, 1992.

PLUS Loan disbursement rules are effective for loans for which the first disbursement is made on or after October 1, 1992.

Changes for Consolidation Loans apply for loans for which the application is received by an eligible lender on or after January 1, 1993.

Uncashed check rules are effective for loans made on or after October 1, 1992.

List of delinquent students is effective on and after October 1, 1992.

Origination fees are imposed on SLS and PLUS loans effective October 1, 1992.

♦ **Title renamed.** Changes the title of Part B to "Federal Family Education Loan Program."

♦ **Authorization extension.** Extends programs through October 1, 1998.

♦ **Federal added to program names.** Renames programs as *Federal Stafford Loan Program*, as well as *Federal SLS*, *Federal PLUS*, and *Federal Consolidation loans*.

♦ **Part B Loan limits.** Modifies loan limits as follows:

♦ **Effective date.** For the Stafford Loan Program, loan limit changes shall apply for loans for which the first disbursement is made on or after July 1, 1993.

♦ **Stafford Loan limits.** Retains the current annual loan limit of $2,625 for first-year students. Increases annual limit for full-time second-year students from $2,625 to $3,500. Increases annual limit for full-time undergraduate students who have completed two years from $4,000 to $5,500. Increases annual limit for full-time graduate students from $7,500 to $8,500 effective October 1, 1993. Retains current law provision giving Secretary authority to increase annual loan limits in narrow cases.

♦ **Stafford Loan limit proration by program length.** Proration of Stafford Loan limits by length of academic program are as follows: For first-year students enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year, $1,750 with respect to loans for which the first disbursement is made on or after October 1, 1992; for enrollment in a program whose length is less than 2/3, but at least 1/3 of an academic year, $875.

For second-year students enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year, $2,325; for enrollment in a program whose length is less than 2/3, but at least 1/3 of an academic year, $1,175.

For other undergraduates enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year, $3,675; for enrollment in a program whose length is less than 2/3, but at least 1/3 of an academic year, $1,825.

♦ **SLS loan limits.** The annual loan limit is $4,000 for full-time undergraduate students who have not completed two years of education. Increases annual limit for full-time undergraduate students who have completed two years from $4,000 to $5,000. Increases annual limit for full-time graduate students from $4,000 to $10,000.

♦ **SLS Loan limit proration by program length.** Proration of SLS loan limits by length of academic program are as follows: For a student who has not successfully completed the first- and second-year of a program of undergraduate education, if such student is enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year, $2,500; for a student if enrolled in a program whose length is less than 2/3, but at least 1/3 of an academic year, $1,500.

For other undergraduates, if a student is enrolled in a program whose length is less than one academic year, but at least 2/3 of an academic year, $3,325; for a student enrolled in a program whose length is less than 2/3, but at least 1/3 of an academic year, $1,675.

♦ **PLUS Loan limit.** The annual limit was increased from $4,000 to the cost of education minus other aid. PLUS is limited to parents who do not have an adverse credit history and late payments on outstanding obligations are not to be considered as having an adverse credit history. The change in the use of credit histories applies to loans for which the first disbursement is made on or after July 1, 1993.

♦ **Aggregate loan limits.** Increases aggregate loan limits for Part B programs, excluding SLS and PLUS loans, to $23,000 for undergraduates and $65,500 for graduate students. Retains current law provision giving Secretary authority to increase aggregate loan limits in narrow cases.

SLS aggregate loan limits for undergraduate students is set at $23,000 and is set at $73,000 for graduate students.

♦ **Special Allowance Payment.** Changes the special allowance for lenders to T-Bill + 3.1 percent effective October 1, 1992.

♦ **Stafford interest rate.** Changes the interest rate to students to a variable rate of T-Bill + 3.1 percent with a cap of 9 percent for Stafford Loans effective for new borrowers after October 1, 1992.

♦ **SLS interest rate cap.** Lowers the cap on SLS loan interest rates to 11 percent for any loan for which the first disbursement is made on or after October 1, 1993.

♦ **PLUS interest rate cap.** Lowers the cap on PLUS loan interest rates to 10 percent for any loan for which the first disbursement is made on or after October 1, 1993.

♦ **Windfall provision on interest rates.** Provides for a "windfall" provision on eight percent loans when the T-bill plus 3.1 percent is less than eight percent. During any period in which the borrower is eligible to have interest payments made on his behalf by the government, the excess is credited to the government. During any period in which the borrower is paying eight percent, the excess is credited to the borrower's account. In any case where the "windfall" provision is applicable, the lender may fulfill the requirement by reducing the borrower's

final payment on the loan. Lenders shall not be required to make additional disclosures because of the operation of the "windfall" provision. This provision applies for new loans to current and former borrowers, who have outstanding balances and on the date of entering into a note or other written evidence of a new loan made on or after the date of enactment of these amendments, OR for new borrowers on that date.

♦ **SLS and PLUS origination fees.** Five percent origination fees are imposed on SLS and PLUS loans effective October 1, 1992.

♦ **Use of origination fees.** All origination fees are to be used in the student loan insurance fund, rather than reverting to the U.S. Treasury.

♦ **Loan deferments.** Consolidates all Stafford loan deferments from those in current law as follows: (1) in-school at least half-time; (2) unemployment for up to three years; and (3) economic hardship for up to three years, defined pursuant to regulations by the Secretary, who shall consider income AND debt to income ratio as primary factors in promulgating the regulations and that these regulations are subject to negotiated rule-making, EXCEPT that those who are working full-time and earning an amount which does not exceed the GREATER of the minimum wage OR an amount equal to 100 percent of the poverty line for a family of two OR the borrower meets such other criteria of economic hardship as established in the Secretary's regulation will be included under the economic hardship deferment; and, (4) provides that requests for deferment by students in graduate or postgraduate fellowship-supported study outside the United States shall be approved through the term of the fellowship. Clarifies the Secretary shall pay accrued interest on Stafford deferments. Extends in-school deferments to all students who are attending a Title IV eligible institution whether or not that institution participates in the loan program, e.g. an institution that has not participated in the Stafford Loan Program or that has ceased participation or for an institution made ineligible for Stafford participation because of cohort default rates in excess of the eligibility trigger rates. Rescinds the current requirement that a student enrolled on a half-time basis must borrow again in order to obtain a deferment. Eliminates the targeted teacher deferment and shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993 to an individual who is a new borrower on the date such individual applies for a loan. Eliminates from the law definitions for totally and permanently disabled and parental leave. New deferment changes affect only new borrowers on the date such individual applies for a loan for loans for which the first disbursement was made on or after July 1, 1993.

♦ **Forbearance.** Provides that forbearance shall take the form of a temporary cessation of payment, UNLESS the borrower opts for an extension of time OR smaller payments. In addition, guaranty agencies may permit parties to a loan to enter into forbearance agreements solely because the loan is in default, permits forbearance for borrowers who are delinquent at the time of the granting of an authorized period of deferment, and also requires the Secretary to permit administrative forbearance for borrowers whose loans are sold or transferred, providing the borrower is less than 60 days delinquent. Further, lenders, in specified circumstances, may exercise forbearance without the consent of the borrower. Allows lenders to exercise administrative forbearance. Allows up to three years of forbearance for borrowers whose debt burden equals or exceeds 20 percent of gross income. Clarifies that the current forbearance for medical residents must be given when the borrower so requests. Effective date for these provisions are on and after October 1, 1992.

♦ **Unsubsidized Stafford Loan.** Creates an unsubsidized Stafford Loan Program so that all students, regardless of income, would be able to obtain a student loan. The unsubsidized loan's terms and conditions would be the same as Stafford Loans, such as loan limits, deferments and interest rates with few exceptions. However, students would pay the interest during in-school and deferment periods. Interest accruing during those periods may be paid or capitalized as agreed by the borrower and lender. Where practicable, a guaranty agency shall use a single application form for subsidized and unsubsidized Stafford Loans. Students would also pay an origination/insurance fee of 6.5 percent. Special allowance may be paid on such unsubsidized loans. The Conference Report states, "...This provision...provides for a single application and loan repayment schedule, and a 6.5 percent combined

origination fee and insurance premium, and clarifies that guaranty agencies cannot charge an insurance premium on these loans...The conferees intend that 6.5 percent combined origination fee and insurance premium be used by the Secretary to cover the federal costs of default claims and special allowance. The conferees are concerned that the 6.5 percent premium may be in excess of the amount needed to subsidize the costs of default claims and special allowance. The conferees direct the Secretary to evaluate the true default risk of the program and if warranted, lower the combined origination fee and insurance premium to ensure that the premium assessed to the borrower reflects the true costs of the program." Provision is effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992.

♦ **Overawards.** Overawards permitted under the College Work-Study Program are not to be construed as overawards for Part B loans.

♦ **Weekly or monthly disbursement.** Allows loan proceeds to be disbursed, with the permission of the borrower, in substantially equal weekly or monthly installments over the enrollment period.

♦ **PLUS Loan disbursement.** Authorizes PLUS loan disbursement only by electronic transfer from the lender to the institution or by making the loan check co-payable to the institution and parent borrower effective to loans for which the first disbursement is made on or after October 1, 1992.

♦ **Loan delivery for students studying abroad.** At the request of the borrower, a student who is studying outside the U.S. in a program of study approved for credit by the home institution at which the student is enrolled, the borrower's loan funds shall be delivered directly to the student and the checks may be endorsed and a borrower's statement of authorization may be executed pursuant to an authorized power-of-attorney.

♦ **Loan repayment warning.** With regard to loan information disclosures by a lender, requires a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid.

♦ **Notification of repayment date.** Requires lenders within 120 days after the borrower has left school, to notify borrowers of the date repayment begins.

♦ **Disclosure Before Repayment date.** The Disclosure Before Repayment must be made during the period starting 60 days prior to the beginning of the grace period and ending 60 days prior to the end of the grace period.

♦ **Part B loan repayment periods.** Provides that the repayment period for FISL and Stafford Loans shall neither be less than five years nor more than ten years and begins the day after the expiration of the grace period, unless the borrower requests an earlier repayment period. The repayment period for SLS and the new Section 428H "Unsubsidized Loan" Program shall begin on the day the loan is disbursed, OR if disbursed in multiple installments, on the day of the last such disbursement. The repayment period for PLUS and Consolidation Loans begins on the day the loan is disbursed. In all cases, the repayment period shall exclude any period of deferment or forbearance.

♦ **Coordination of Stafford and SLS Repayment.** Provides that in the case of a SLS borrower who also has Stafford Loans, the lender will notify the borrower of the option to defer commencement of repayment for six months after the student ceases to carry at least one-half the normal full-time academic workload, except that interest begins to accrue and shall be paid (or capitalized) notwithstanding the delay in the commencement of the repayment period. The lender is required, also, to notify the borrower of his or her option to commence repayment earlier and the difference in the total cost.

♦ **Commencement of PLUS repayment.** Repayment of principal on PLUS loans shall begin not later than 60 days after the date of disbursement by the lender subject to deferral during any period which the parent meets the

Stafford Loan deferral conditions. Interest on PLUS loans for which payments of principal are deferred shall, if agreed upon by the borrower and the lender, be paid monthly or quarterly OR be added to the principal amount of the loan not more frequently than quarterly by the lender.

♦ **Married borrower joint minimum repayment.** Eliminates the joint minimum repayment for married borrowers.

♦ **Graduated or income-sensitive repayment.** Requires lenders, not more than six months before the beginning of the repayment period, to offer FISL, Stafford or SLS borrowers the option of graduated or income-sensitive repayment, according to a schedule established by the lender and approved by the Secretary. Effective date is for loans for which the first disbursement is made on or after July 1, 1993 to an individual who is a new borrower on the date such individual applies for a loan.

♦ **Income contingent repayment of certain loans.** Requires the Secretary to establish, by regulation, terms and conditions for income contingent repayment of certain loans. The regulations shall specify repayment schedules, permit write-off of the remaining obligation on loans after 25 years, and may provide for collection of amounts in excess of the original principal and interest owed. The Secretary shall enter into contracts with private firms or Government agencies for collections, and the regulations will not be effective unless the Secretary publishes a finding that the collection mechanisms established will provide a high degree of certainty of collection and will result in an increase in the net amount the Government will collect. A loan is subject to income contingent repayment if (1) it contains notice in the note that it is subject to such repayment, (2) has been assigned to the Secretary to collect, and (3) the Secretary has published the necessary finding. Also, requires that each promissory note contain notice that repayment after default may be on an income-contingent basis.

Authorizes the Secretary to acquire loans of high-risk borrowers who submit a request to the Secretary for an alternative repayment option, to offer such borrowers options including graduated or extended repayment and income-contingent repayment, if the Secretary has established a collection mechanism that will provide a high degree of certainty that collections will be made on an income-contingent basis and that use of such option and mechanism will increase the net amount the Government will collect. No more than $200 million may be used to acquire loans under this section in any fiscal year; such sums as may be necessary are authorized for FY-94 and beyond.

♦ **Bankruptcy repayment.** If the collection of any Part B loan is stayed in any action under the Bankruptcy Code, the Secretary shall repay the principal and interest.

♦ **Discharge of loans at closed schools.** Provides for the discharge of loans for borrowers at closed schools. Clarifies that this provision applies to loans falsely certified, that the amount discharged includes interest and collection fees, that the Secretary shall pursue claims after discharging the loan, that the Secretary can pursue claims against affiliates or principals of institutions, and references the bonding authority and tuition reserve funds language as funds to reimburse the Secretary for discharging the loan. The conferees intend the Secretary to discharge loan amounts that borrowers have used for educational expenses. The Secretary may pursue claims against borrowers to collect loan funds in instances where the Secretary can document that the money was not used for educational expenses. The student's period of attendance at a school at which the student was unable to complete his or her course of study due to its closing shall not be considered for calculating the student's period of eligibility for additional Title IV aid. A borrower whose loan has been discharged under this provision is not precluded from receiving additional federal aid, if eligible, but for the default on such discharged loan.

♦ **Discharge of PLUS Loan.** The Secretary must discharge the parent's liability for a PLUS loan if the student on whose behalf the parent borrowed dies.

♦ **Employer repayment of loans.** The Secretary is to undertake a program to encourage employers, public and private, to assist borrowers in repaying their student loans and publicize model programs and innovative approaches in this area. The Secretary, within one year of the date of enactment, is required to recommend to the appropriate Congressional committees changes to statutes in order to further encourage such efforts.

♦ **Stafford Loan cancellation.** Authorizes $10 million in FY-93 and such sums in the next four years for a program of Stafford Loan forgiveness for teachers, individuals performing community service, and nurses to test the effectiveness of loan forgiveness. Applies only to Stafford Loans, excludes SLS, PLUS, and Consolidation Loans, for any new borrower after October 1, 1992. The borrower must (1) be a full-time teacher in a school which qualifies for Perkins Loan cancellation and teach math, science, foreign languages, special education, bilingual education, or any other field of expertise where the state educational agency determines there is a shortage of qualified teachers; OR (2) agrees in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the IRS Code; OR (3) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center, or in an acute care or long-term care facility. Loans are cancelled in the following fashion: (A) 15 percent of the total amount of Stafford Loans incurred by the student borrower during the borrower's last two years of undergraduate education for the first or second academic year in which such borrower meets eligibility requirements; (B) 20 percent of the total amount for the third and fourth academic year; and (C) 30 percent of the total amount for such fifth academic year.

♦ **Effective date for Consolidation Loan changes.** Changes for Consolidation Loans apply to loans for which the application is received by an eligible lender on or after January 1, 1993.

♦ **Consolidation Loan repayment schedule.** Increases the minimum Consolidation Loan from $5,000 to $7,500 and modifies the Consolidation Loan repayment schedule as follows: $7,500-$9,999: 12 years; $10,000-$19,999: 15 years; $20,000-$39,999: 20 years; $40,000-$59,999: 25 years; $60,000 + : 30 years.

♦ **Consolidation Loan changes.** Allows delinquent and defaulted borrowers, who will enter repayment through loan consolidation, eligibility for Consolidation Loans. Allows borrowers 180 days after receipt of their consolidation loan to add additional loans that may have been omitted from the consolidation. Further, married students are made eligible for Consolidation Loans IF they together have eligible student loans. Provides for interest benefits to be paid by the Secretary during any period for which the borrower is eligible for deferral. Requires that lenders offer graduated and income-sensitive repayment terms to Consolidation Loan borrowers. Extends the Consolidation Loan Program through September 30, 1998.

♦ **Default rate ineligibility trigger.** Reduces the threshold percentage for institutional eligibility based on default rates for three consecutive years from 30 percent for FY-93 to 25 percent thereafter.

♦ **Default rate calculation for schools with few borrowers.** Modifies the cohort default rate calculation for institutions with less than 30 borrowers entering repayment each year from current law's three-year average to the percentage of such current and former students who entered repayment on such loans in any of the three most recent fiscal years.

♦ **Default rate calculation for SLS Loans.** For purposes of calculating cohort default rate, SLS loans shall not be considered to enter repayment until the borrower leaves school. Each lender will furnish the guaranty agency with the necessary information to determine when the SLS loan entered repayment and the guaranty agency will furnish the information to the Secretary.

♦ **Default rate for institutional lenders.** For an eligible institution to be an eligible lender, in addition to the current law requirements, mandates the school not have a cohort default rate above 15 percent and requires institutions to use special allowance and interest payments for need-based grants, except for reasonable reimbursement for administrative expenses.

♦ **Defaulted loan rehabilitation.** Each guaranty agency is to establish a program allowing a defaulted borrower the opportunity to renew their Title IV eligibility upon the individual's payment of six consecutive monthly payments. The guaranty agency is not to demand a monthly payment in an amount more than is reasonable and affordable based on the borrower's total financial circumstances. The Conference Report contains the following Report language, "The conferees intend that the new loan rehabilitation provisions are to provide a second chance, particularly to low-income borrowers many of whom were defrauded by unscrupulous schools and never received promised jobs or training and who now have ruined credit or even judgments against them because of defaulted loan. These low-income students need this chance to enter repayment, become re-eligible for student financial assistance, and obtain the education and training necessary to enter the job market, an opportunity they would otherwise be denied...these loan rehabilitation provisions are intended to apply whether the guaranty agency or the Secretary of Education holds the loans."

♦ **Department default reduction activities.** The Department is authorized $25 million in FY-93 and such sums in the out-years to expend in default reduction management activities to result in a performance measure of reducing defaults by five percent relative to the prior year. Allowable activities include program reviews, audits, debt management programs, training activities, and other such activities approved by the Secretary in accordance to a plan submitted by the Secretary accompanying the Administration's annual Budget submission.

♦ **Annual default rate list.** Requires the Secretary annually publish a list indicating the annual default rate for each lender, guaranty agency, holder of loans, and an average default rate for all institutions within each state.

♦ **Delinquent student lists.** Upon request, institutions may receive from guaranty agencies lists, in order to comment on the accuracy of the lists of their students who are delinquent in loan repayment for which preclaims assistance has been requested. Such lists would consist of only borrowers who last attended the institution. Institutions may be charged a reasonable fee for lists, but the guaranty agencies must use information provided to them by the institution. Institutions are required to use this information only to assist the school in reminding students of their obligation to repay student loans and are prohibited from disseminating the information for any other purpose. Effective date is on and after October 1, 1992.

♦ **Credit report.** Requires consumer credit reporting agencies to report, in the case of a borrower who enters repayment after a default, any subsequent default.

♦ **Notification of sale of loan.** A lender must promptly notify the borrower and the guaranty agency and, on request by an eligible institution, the guaranty agency shall notify the last institution attended (prior to the beginning of the repayment period) by the borrower, of any sale or transfer of a loan and the address and phone number of the new holder. The provision applies only if the borrower is in the grace or repayment period, and if the sale or transfer results in a change in the borrower's making payments or directing communications. Within 45 days the transferor and transferee must separately notify the borrower of the sale, the identity of the new holder, the name and address of the party to whom subsequent payments or communications must be sent, and the phone numbers of the parties involved in the transaction.

♦ **Guaranty agency stability.** Requires the Secretary to annually report to Congress on his assessment of the fiscal soundness of the guaranty agency system along with recommendations for any changes necessary to maintain a strong system.

♦ **Termination of guaranty agency.** Authorizes the Secretary of Education to establish management plans for financially weak guaranty agencies to ensure stability in the program and establishes standards of guaranty agency financial strength. Authorizes the Secretary to terminate a guaranty agency's agreement if it fails to submit an acceptable management plan, if he determines that the agency has failed to substantially improve its administrative and financial condition, or if he determines that the agency is in danger of financial collapse. If the Secretary terminates such an agreement he must assume all guaranty agency functions. In performing such functions, he may (1) permit the transfer of guarantees to another agency; (2) require the merger, consolidation, or termination of the agency; (3) transfer guarantees to the Department; (4) design and implement a plan to restore the agency's viability; OR (5) take any other action he determines necessary. The Secretary has the further option of providing the guaranty agency with additional advance funds to assure the uninterrupted payment of claims, with restrictions deemed appropriate. Prohibits the Secretary from terminating any guaranty agency backed by the full faith and credit of its state. Allows holders of loans, insured by a guaranty agency determined by the Secretary to be insolvent, to submit its claims directly to the Secretary. Authorizes the Secretary to make emergency advances to guaranty agencies in order to enable them to pay lender claims.

♦ **Guaranty agency/school participation agreement.** Provides guaranty agency authority to require a participation agreement between the agency and each eligible institution within the state in which it is designated as a condition for guaranteeing loans made on behalf of students attending the institution.

♦ **Lender-of-last-resort.** Requires guaranty agencies to develop rules and operating procedures for lender-of-last-resort programs designed to ensure facilitated applications by students, widespread information about loan availability, and appropriate borrower counseling. Requires guaranty agencies to notify the Secretary of the possible need for the Secretary to use his authority to allow Sallie Mae to make lender-of-last-resort loans.

♦ **Lender-of-last-resort exemption.** Lenders and guaranty agencies are exempt from the lender-of-last-resort provision for institutions with a cohort default rate above 25 percent, that have participated in the program for less than 18 months, or that are subject to any emergency action, limitation, suspension, or termination proceeding. The Conferees relieve until July 1, 1994 historically black colleges and universities and tribally-controlled community colleges from this exemption. Allows the Secretary to require a guaranty agency or other eligible lender to make loans to an institution if there are mitigating circumstances involved with the above conditions that would make its application inequitable.

♦ **Consequences of LS&T action.** Provides for expedited Limitation, Suspension, and Termination procedures, applied nationally to an institution and its branches. Authorizes a guaranty agency to limit the total number OR volume of loans made to students attending a particular institution AND to limit, suspend, or terminate an institution's eligibility under regulations by the Secretary or agency regulations that are substantially the same. Also, authorizes guaranty agency action if a state constitutional prohibition affects eligibility; if the institution fails to make timely refunds OR fails to satisfy a judgment for a refund brought by a student within 30 days; if the institution's owner, director, or officer is found guilty in any criminal, civil, or administrative proceeding regarding student aid; or if such institution or its owner, director, or officer has unpaid financial liabilities involving improper acquisition, expenditure, or refund of state or federal financial aid funds. The Secretary is required to apply an agency's action nationwide unless he finds, within 30 days of notification of an agency action, that such action did not comply with the requirements set forth in the law.

♦ **Standardization and simplification requirements.** The Secretary, in consultation with all program participants, is required to develop standardized forms and procedures regarding origination, guaranty, deferments, forbearance, servicing, electronic funds transfers, borrower status changes, claims filing, and cures. Simplification requirements shall include standardization of formats, forms, and procedures for origination, servicing, and collection of loans; and, alternate means of implementation of electronic data exchanges. Such forms and procedures must include all aspects of the loan process and shall be designed to minimize administrative costs and

burdens involved in data exchanges to and from borrowers, schools, lenders, secondary markets, and the Department. The Secretary, at least annually, is to seek recommendations from program participants for additional methods of simplifying and standardizing the administration of Part B programs. There is no limitation on the development of electronic forms and procedures.

♦ **Printing of loan applications.** Changes in the designation, names of loans, or programs under Part B is effective with respect to applications or other documents, used in making such loans that are printed after the date of enactment.

♦ **Borrower address.** Guaranty agencies are authorized to enter into agreements with state licensing boards to obtain borrower addresses in any case where the location of the borrower is unknown or unavailable.

♦ **Guarantee agency spend-down rules.** Requires the Secretary, within 30 days of enactment, to pay the full amount of payments withheld or canceled to any guaranty agency which was required to spend-down its reserves, appealed the Secretary's demand and received a waiver of a portion of the amount to be spent-down, had the remainder withheld or canceled, and according to a Department review, is expected to become insolvent by 1996, at least in part because of the spend-down.

♦ **Uncashed loan check rules.** With small exceptions for Electronic Funds Transfer or for written checks, no special allowance is paid on loans where the student does not cash the check. Also, applies the provision to guaranty agency administrative cost allowances. Loans for which the disbursement checks have not been cashed may not be purchased from the original lender. Lenders cannot sell or transfer a promissory note until the final disbursement of the loan has been made UNLESS the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan AND the first disbursement of such loan has been made. Effective date is for loans made on or after October 1, 1992.

♦ **Exceptional performance demonstration program.** Establishes a demonstration program to test the concept of rewarding lenders, guaranty agencies, and servicers of exceptional performance with 100 percent reinsurance so as to provide greater flexibility in collections and servicing procedures. Entities must have a 97 percent or above compliance performance rating. There is required a GAO study and the Secretary has the authority to terminate the program at the end of three years.

♦ **Suspension of loan guarantee and timely regulation deadline.** Suspends the authority for new loan guarantees IF the Secretary has not issued final regulations implementing changes to Part B before June 30, 1994. The authority shall resume upon issuance of the final regulations. This provision does not provide a basis for avoiding any requirements for notice and public hearing on such regulations.

♦ **Study abroad.** Clarifies that Stafford Loans are available for a program of study abroad approved for credit by an eligible institution.

♦ **Repeal of credit checks and confession of judgment.** The requirements of the Unemployment Compensation Act of 1991 which require credit checks and a confession of judgment, among other provisions is repealed.

♦ **Personal financial interest reporting requirement.** Mandates that all officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, state entities designated under Part H (Program Integrity), and entities acting as secondary market, including Sallie Mae, who are engaged in making decisions OR providing advice as to the administration of any program or funds under Title IV OR as to the eligibility of any entity or individual to participate in Title IV programs, shall report to the Secretary on any financial interest which the individual may hold in any other entity participating in any Title IV program.

♦ **Regulation of third-party servicers.** The Secretary is authorized to regulate third-party servicers.

♦ **Sallie Mae.** Makes a number of amendments to the authorization language of Sallie Mae.

♦ **Definition of "new borrower."** The term "new borrowers" is defined as with respect to any date an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under Part B.

PART C--FEDERAL WORK-STUDY PROGRAMS

♦ **Effective date.** Provisions in Part C are effective on October 1, 1992, unless otherwise noted.

♦ **Name.** The program is renamed *Federal College Work-Study Program.*

♦ **Authorization.** The program authorization is extended through FY-97 with $800 million authorized for FY-93 and such sums as necessary for the succeeding four years.

♦ **Definition of community service.** Community services are defined services identified by an institution of higher education to improve the quality of life for community residents, particularly low-income individuals, or to solve problems related to their needs including: (1) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, and others; (2) work in service opportunities or youth corps as defined in the National and Community Service Act of 1990; (3) support services for students with disabilities; and (4) activities in which a student serves as a mentor for such purposes as tutoring, supporting educational and recreational activities, and counseling, including career counseling.

♦ **Excess appropriations.** In any fiscal year in which the CW-S appropriation exceeds $700 million, not more than ten percent of the amount in excess of $700 million may be allocated by the Secretary to institutions at which 50 percent or more of their Pell Grant recipients graduate or transfer to a four-year institution.

♦ **Reallocation.** All excess CW-S program allocations returned by schools to the Secretary shall be reallocated to institutions who use at least ten percent of their CW-S funds for community service; these redistributed funds are to be used for direct compensation of students employed in community service.

♦ **Use of funds for Community service learning.** Beginning in FY-94, all institutions are required to use at least 5% of their work-study funds for community service work-study programs, unless a waiver is granted by the Secretary.

♦ **Use of funds for nontraditional students.** If an institution's CW-S allocation is directly or indirectly based in part on the financial need demonstrated by students who are attending the institution less than full-time or are independent students, AND, if the total financial need of all such students at the institution exceeds five percent of the total financial need of all students, then at least five percent of the allocation must be made available to such less than full-time and independent students.

♦ **Overaward income limit.** When a student employed in a work-study program under Part C has income from need-based employment in excess of the student's determined need by more than $300, continued employment may not be subsidized by CW-S funds.

♦ **Institutional match.** Beginning in the 1993-94 academic year, the institutional matching requirement is decreased to 25 percent. The Federal share may be increased if the Secretary issues regulations establishing objective criteria for making such a determination.

♦ **Community service learning program match.** The special 90 percent federal match for community service programs is eliminated, however, when a student engaged in work in community service performs such work for a private non-profit organization other than the eligible school, the contribution of such agency or organization shall not exceed 40 percent of the institution's share of the compensation of the student and the institution in its discretion may count such contribution toward satisfaction of the non-Federal share of the compensation of the student.

♦ **Proprietary school requirements.** Proprietary institutions are required to establish the same community service Work-Study programs as non-profit institutions, and are permitted to employ students in jobs furnishing student services that are directly related to the student's education, according to regulations by the Secretary.

♦ **Program agreement changes.** The operation of community service work programs is added to the work-study program agreement between institutions and the Secretary. Further, the institution must provide assurances that it will inform all eligible students of the opportunity to perform community service, and will consult with local non-profit, governmental and community-based organization to identify such opportunities. Institutions are required to provide assurances that employment made available by Work-Study funds may be used to support programs for supportive services to students with disabilities.

♦ **Carry-back authority.** In addition to permitting institutions to carry back up to 10 percent of funds appropriated, institutions are also permitted to fund students with summer employment from the succeeding fiscal year's appropriation.

♦ **Use of funds for Job Location and Development (JLD).** An institution may use not more than 10 percent or $50,000 (whichever is less) of its work-study funds for Job Location and Development programs for currently enrolled students.

♦ **Administrative expense allowance.** The special administrative expense allowance for institutions providing work-study for community service learning is eliminated, but institutions retain authority to use up to ten percent of general administrative expense funds for expenses incurred for its community service program.

♦ **Work colleges.** An authorization of $5 million in FY-93 (and such sums as may be necessary for each of the four succeeding fiscal years) is included for a new program within the CWS Program to recognize, encourage, and promote the use of comprehensive work-learning programs. In addition to the funds for the new authorization, CW-S and Perkins Loan funds allocated to the institution may be transferred for use for this program to provide flexibility in strengthening the self-help-through-work element in financial aid packaging. To be eligible, institutions must (1) apply to the Secretary to be designated a Work College; (2) be a non-profit postsecondary institution with a commitment to community service; (3) have operated a comprehensive work-learning program for at least 2 years; (4) require all resident students who reside on campus to participate in a comprehensive work-learning program; (5) provide participating students with the opportunity to contribute to their education and to the welfare of the community. Appropriated funds must be matched equally from non-Federal sources. Funds may be used for (1) providing assistance to pay the educational expenses of qualified students through self-help payments or credits provided under the work-learning program; (2) promotion of a comprehensive work-learning program as a tool of postsecondary education, financial self-help, and community service learning opportunities; (3) the administration, development and assessment of comprehensive work-learning programs; and, (4) other activities authorized for the CW-S Program.

PART D--FEDERAL DIRECT LOAN DEMONSTRATION PROGRAM

The newly authorized Federal Direct Loan Demonstration Program would have the following conditions:

♦ **Effective date requirements.** The Secretary shall publish in the Federal Register, not later than April 1, 1993, all proposed regulations for carrying out the program. Final regulations are to be published not later than July 1, 1993. The closing date for applications is October 1, 1993. The Secretary publishes the list of institutions selected for participation in the demonstration program and the control group not later than January 1, 1994. Agreements between the Secretary and participating institutions are to be concluded not later than January 1, 1994. Servicing contracts are awarded not later than February 1, 1994. Students receive first demonstration program loans on July 1, 1994. The demonstration program ends on June 30, 1998. Evaluation by the General Accounting Office is required by May 1, 1998.

♦ **Representative sample of participants.** Participating institutions are to be representative of all Part B schools with, for the purposes of initial selection, a total annual loan volume of $500 million. The demonstration program's cross-section of Part B participants is to be representative by control of the institution, length of academic program, highest degree offered, size of student enrollment, percentage of students borrowing under Part B, geographic location, annual loan volume, default experience, and composition of student body.

♦ **Inadequate sample.** Additional institutions will be selected by the Secretary, if necessary, to complete the sample. Schools may decline to participate for a good cause, pursuant to regulations established by the Secretary.

♦ **Control group.** A similar group of institutions will be selected as a control group for comparison of their experience with the demonstration program's experience.

♦ **Expression of interest.** The Secretary will select participants first from among institutions expressing an interest in enrolling in the program using an application containing such information as the Secretary requires.

♦ **Consortia.** Institutions may apply to participate in the program as members of consortia. Institutions selected to participate in the program may also form consortia to carry out their responsibilities under the program.

♦ **Use of one program.** Institutions may participate either in the Part B programs or the demonstration program, but not both.

♦ **Guaranty agency rules.** Loan volume of institutions in the program may not exceed 15 percent for any specific guaranty agency and the Secretary shall determine that agencies remain financially sound.

♦ **Part B Loans inclusion.** The Stafford, SLS, and PLUS programs are included in the demonstration program.

♦ **Terms and conditions.** The direct lending demonstration program loans are required to have the same terms and conditions as comparable loans in Part B, except that certain terms and conditions will need to be different using the income contingent repayment plans.

♦ **Entitlement.** Institutions are entitled to receive funds sufficient to make loans to all eligible students and parents. Initial payments for any academic year are to be made available to each school not later than ten days prior to the beginning of the academic year.

♦ **Origination.** Institutions or consortia originate the loans.

♦ **Servicing contracts.** Servicing of loans is done by no fewer than five contractors, with contracts administered by the Department of Education.

♦ **Income contingent repayment.** Thirty-five percent of the demonstration and control group shall offer income contingent repayment options to borrowers--if the Secretary publishes a finding that the Department has established

a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the income contingent repayment option and that use of such option and collection mechanism will result in an increase in the net amount the Government will collect.

♦ **Administrative costs.** Administrative and servicing funds used for the program are made mandatory expenditures and are capped at a total of $189 million for the length of the demonstration program.

♦ **Institutional agreements.** The law includes deadlines for performance of required activities by the Secretary. Agreements between the Secretary and participating institutions to make loans for the period beginning with the academic year starting on July 1, 1994 must be concluded not later than January 1, 1994. Such agreements have a number of requirements for institutions to fulfill such as student selection, origination, providing timely information, administrative responsibilities for those schools selected to offer students the income contingent repayment option, and participation for the length of the demonstration program, except there is a procedure for withdrawal.

PART D--INCOME CONTINGENT LOAN DEMONSTRATION PROGRAM

♦ **Current law Part D repeal of Income Contingent Loan Demonstration Program and transfer of funds.** The Income Contingent Loan Demonstration Program was repealed. Remaining assets from the program will be redistributed by allowing institutions to transfer any remaining funds, including future collections and all other funds, at the institution's discretion to the Perkins, CW-S, or SEOG programs under the terms and conditions of those programs. Participating institutions are allowed to convert ICL Loans to Perkins Loans after July 1, 1992 provided the institution notify the borrower of the conversion; obtain a signed Perkins Loan promissory note from the borrower for the remaining amount outstanding; and provide the borrower in writing with a description of all terms and conditions of the new loan.

PART E--FEDERAL PERKINS LOANS

♦ **General effective date.** Changes made by Part E are effective on the date of enactment, unless otherwise noted.

♦ **Effective dates.** The revised institutional matching requirements apply to funds provided for award years beginning on or after July 1, 1993.

The increase in the minimum monthly payment applies to loans for which the first disbursement is made on or after October 1, 1992 to an individual, who on the date the loan is made, has no outstanding Perkins Loan balance of principal or interest.

Revised deferment provisions apply only to loans for which the first disbursement is made on or after July 1, 1993.

The provision relating to the creation of a Perkins Loan Revolving Fund shall take effect on September 15, 1997.

♦ **Name.** The program is renamed *Federal Perkins Loan Program.*

♦ **Purpose.** A specific reference is added noting that Perkins loans may be used for students in study abroad programs approved for credit by the institution.

♦ **Authorization.** The program is authorized through FY-97 with $250 million authorized for FY-93 and such sums in the subsequent years.

♦ **Allocation.** The basis upon which an institution's allocation is made is changed from Federal capital contribution (FCC) "received" in FY-85 to FCC "allocated to such institution" in FY-85.

♦ **Appeals procedure for collections.** An appeals process is established by which the Secretary can waive the requirement for annually increased collections for low-default institutions.

♦ **Default rate penalty.** The current system of default rate penalties for the Perkins Loan Program is changed by providing that in FY-94, institutions with cohort default rates greater than or equal to 30 percent will receive no new Perkins Loan funding; institutions with default rates greater than or equal to 25 percent will have their funding reduced by 30 percent; institutions with default rates greater than or equal to 20 percent will have their funding reduced by 10 percent and institutions with default rates greater than or equal to 15 percent will have to establish a default reduction plan. A default reduction plan implemented under the requirements of the Stafford Loan Program and under the Perkins Loan Program should be coordinated.

♦ **Default rate threshold and definition.** The applicable maximum default rate for award years 1992 and 1993 remains at 15 percent; for award year 1994 and subsequent years, the maximum cohort default rate is 30 percent. The definition of default rate is changed as follows: (1) For any award year prior to award year 1994 the calculation remains as in current law, except a loan will be considered in default 240 days (in the case of a loan repayable monthly) and 270 days (in the case of a loan repayable quarterly) after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note. This is a change from 120 days for monthly repayments and 180 days for quarterly repayments. (2) For award year 1994 and any succeeding year, a cohort default rate will be used, which parallels the Stafford Loan default rate calculation. The definition provides that if a borrower has made arrangement to resume repayment, such a loan is not counted toward the institutional default rate, and in the case of a student who has attended and borrowed at more than one school, the student and his or her subsequent repayment or default, is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

♦ **Reallocation.** Eighty percent of Perkins Loan Program funds returned by institutions will be allocated to schools which participated in the Perkins Loan Program in FY-85 but did not receive an allocation in the fiscal year for which the reallocation determination is made.

♦ **Return of allocated funds.** Institutions that fail to award at least 90 percent of their Perkins Loan funds will have their subsequent year's allocation reduced by the amount returned, unless the Secretary finds that enforcing this provision for a specific institution is contrary to the interest of the program.

♦ **Institutional match.** The institutional match is increased to 15 percent in FY-93 and to 25 percent in subsequent years.

♦ **Credit bureau requirements.** Institutions are required to disclose to credit bureau organizations with which the Secretary has an agreement, the amount of loans made to the borrower and other information specified under the credit bureau reporting requirements for Part B loans.

♦ **Disclosure requirement.** The Perkins Loan disclosure statement to borrowers is modified so that borrowers understand that the disbursement and default on a Perkins Loan will be reported to credit bureaus.

♦ **Use of interest bearing accounts.** Short-term holders of collected Perkins Loan funds (collection agents, attorneys, and loan servicers) are not required to place collected funds in interest bearing accounts unless such entities hold collections for more than 45 days.

♦ **IRS skip tracing.** The Secretary is required to make every effort to ensure that postsecondary institutions may use IRS skip-tracing collection procedures for Perkins Loans.

♦ **Annual limits.** Annual loan limits are established at $3,000 for undergraduate students and $5,000 for graduate students. Annual Perkins Loan limits may be increased by 20 percent for study-abroad students.

♦ **Aggregate limits.** Aggregate borrowing limits are set at $15,000 for undergraduate students and $30,000 for graduate and professional students. Aggregate Perkins Loan limits may be increased by 20 percent for study-abroad students.

♦ **Expanded Lending Option.** An Expanded Lending Option program is created providing that institutions with default rates of 7.5 percent or less may increase their campus match to at least 50 percent, and may offer annual limits of $4,000 for undergraduates and $6,000 for graduate students. Aggregate loan limits are: $8,000 for students in their first two years of undergraduate education; $20,000 for total undergraduate education; and $40,000 for graduate and professional students.

♦ **Additional student information.** Students must provide their driver's license number at the time of application.

♦ **Use of funds for nontraditional students.** If an institution's Perkins Loan Federal capital contribution is directly or indirectly based in part on the financial need demonstrated by students who are attending the institution less-than-full-time OR are independent students AND, if the total financial need of all such students at the institution exceeds five percent of the total financial need of all students, then at least five percent of such loans must be made available to such less-than-full-time and independent students.

♦ **Minimum repayment.** The monthly minimum repayment is increased from $30 to $40.

♦ **Elimination of defense of infancy.** A borrower's loan is made without security or endorsement, regardless of whether the borrower is a minor.

♦ **Deferments.** Perkins Loan payments are deferred: (1) for any borrower in-school at least half-time; for any borrower pursuing a course of study pursuant to a graduate fellowship program or pursuant to a rehabilitation training program for disabled individuals (programs must be approved by the Secretary)--except that no borrower is eligible for a deferment under this clause while serving in a medical internship or residency program; (2) for up to three years during which the borrower is seeking and unable to find full-time employment; (3) for up to three years for economic hardship, defined pursuant to regulations by the Secretary; or (4) during any period in which the borrower is engaged in certain community service activities. In addition, deferments will be approved for students engaged in graduate or post-graduate fellowship-supported study outside the U.S. until the completion of the period of the fellowship.

♦ **Grace period.** There will be no repayment of principal or interest until six months after the completion of the deferment period.

♦ **Forbearance.** Institutions are required to grant a borrower forbearance of principal and interest or principal only, upon written request, if the borrower's debt burden equals or exceeds 20 percent of such borrower's adjusted gross income; OR, if the institution determines that the borrower should qualify for forbearance for other reasons. Such forbearance is renewable at 12-month intervals for a period not to exceed 3 years.

♦ **Special repayment authority.** Subject to restrictions as the Secretary may prescribe to protect the government's interests, institutions are permitted to compromise on repayment of defaulted Perkins loans the student borrower pays in a lump sum payment: (1) 90 percent of the loan; 2) the interest due on the loan; and, 3) any collection fees on the loan. The Federal share and institution's share of the compromise repayment is the ratio of the FCC to the institution's capital contribution.

♦ **Cancellation provisions.** The 50 percent limitation of all Chapter I schools in a state is removed for purposes of determining eligibility for Perkins Loans cancellation. Eligibility for loan cancellation is also provided to additional employment categories including: (1) full-time special education teachers, including teachers of infants, toddlers, children, or youth with disabilities in a public or other non-profit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other non-profit program under public supervision by the lead agency as authorized in section 676(b)(9) of the Individuals With Disabilities Education Act; (2) full-time teachers of mathematics, science, foreign languages, bilingual education, and other shortage fields determined by the state's education agency (3) full-time nurses and medical technicians providing health care services; and, (4) full-time employees of public or private non-profit child or family service agencies who are providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.

♦ **Duration of eligibility for cancellation.** The Secretary is permitted to use the previous year's list of Chapter 1 schools eligible for Perkins Loan cancellation if the new list is not available by May 1. A borrower receiving Perkins Loan cancellation for teaching in a Chapter 1 schools may continue to receive such cancellation for subsequent years provided the borrower continues to teach in the school, even if the school loses its designation.

♦ **Excess cash determination.** A requirement is added to the current excess capital distribution rules providing that no finding may be made that the liquid assets of a student loan fund exceeds the amount required prior to two years after the date the institution received a Perkins Loan allocation.

♦ **Creation of Perkins Loan Revolving Fund.** A Perkins Loan Revolving Fund is created to ensure that collections on defaulted loans and other unused loan funds (such as funds on loans referred, transferred or assigned to the Secretary; collections on loans referred; funds from schools that closed; funds resulting from audit finding; etc.). These funds will reallocated to institutions rather than placed in the U.S. Treasury as is now the case.

PART F--NEED ANALYSIS

♦ **Effective date.** Provisions in Part F are effective for award years beginning on or after July 1, 1993.

♦ **Single need analysis.** A single methodology is established in Part F with the resulting expected family contribution to be used for purposes of all Title IV federal student aid programs.

♦ **Definition of need.** Need is defined as cost of attendance minus expected family contribution (EFC) and estimated financial assistance, except that such definition does not apply to the Pell Grant Program. [See award rules in Subpart 1 of Part A for determination of Pell Grant awards.]

♦ **Estimated financial assistance.** This is defined as all scholarships, grants, loans, or other assistance not received under title IV and INCLUDES veterans educational benefits.

♦ **Cost of attendance.** Components include: 1) tuition and fees, including equipment, materials, or supplies required of all students in the same course of study; 2) books, supplies, transportation and miscellaneous personal expenses for students attending at least half-time; 3) room and board of not less than $1,500 for a student without dependents living at home with parents; OR, a standard allowance for students without dependents living in institutionally owned or operated housing; OR, for all other students, an allowance of not less than $2,500 based on reasonably incurred room & board expenses; 4) for less than half-time students, tuition and fees, and an allowance for books, supplies, and transportation and dependent care expenses; 5) for correspondence study, only tuition and fees, and if required, books, supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training; 6) for incarcerated students, only tuition and fees and, if required, books and supplies; 7) for study abroad programs approved for credit by the student's home institution, reasonable costs

associated with such study; 8) for a student with dependents, an allowance based on the estimated actual expenses incurred for dependent care (including but not limited to, class-time, study-time, field work, internships, and commuting time) based on the number and age of such dependents, not to exceed the reasonable cost in the community for the kind of care provided; 9) an allowance for expenses related to a student's disability; 10) for students receiving instruction by telecommunication, no distinction shall be made regarding the mode of instruction in determining costs except that the cost of rental or purchase of equipment is not permitted; and 11) for students in cooperative education programs, an allowance for reasonable costs associated with such employment.

♦ **In general.** Generally, the methodology is similar to the current Congressional Methodology for families of dependent students and for most independent students. The exception is that married independent students without dependents are now treated more like single students (as opposed to their current treatment like independent students with dependents). There are three methodologies: for dependent students; for independent students without dependents; and for independent students with dependents. (For purposes of determining which methodology is to be used, a student's spouse is NOT considered a dependent.) In addition, special methodological treatment for dislocated workers and displaced homemakers has been eliminated. [Note that the current minimum student contribution is not included as part of a student's EFC, and is, therefore, eliminated from consideration in the determination of need.]

DEPENDENT STUDENT METHODOLOGY

♦ **Dependent student EFC calculation.** The expected family contribution for the dependent student is the sum of the parental contribution, the student's contribution from income, and the student's contribution from assets.

♦ **Parental income analysis.** The income analysis for the dependent student's parents provides for the following offsets from total base year income: federal income taxes, state and other taxes, social security taxes, income protection, and employment. Remaining income is called available income. A negative available income is permitted. [Note that the offsets for medical/dental expenses and elementary/secondary tuition expenses have been eliminated. Also, note that the income protection allowance is the current standard maintenance allowance, renamed.]

♦ **Parental asset analysis.** The asset analysis for the dependent student's parents provides for the consideration of current cash/savings/checking, the net value of investments and real estate (excluding principal place of residence), and adjusted net worth of business and farm (except the family farm on which the family resides). From these assets, a combined education savings and asset protection allowance (in the same amounts as the current asset protection allowance) is subtracted; the remainder is assessed at 12 percent. The resulting contribution from assets may not be less than zero.

♦ **Parental contribution calculation.** The parental contribution for a student is calculated as follows. The adjusted available income (AAI) is determined by adding the available income and the contribution from assets. It is assessed according to a schedule, at 22 percent to 47 percent. To derive the parental contribution for a student, the result is divided by the number of family members (including parents) enrolled or accepted for enrollment on at least a half-time basis in a degree, certificate, or other program leading to a recognized educational credential. The parental contribution may not be less than zero.

♦ **Additional computations.** The computations in case of separation, divorce, remarriage, or death of a parent have been modified. Both the income and assets of a parent are included in the case of separation or divorce. Income and assets of the surviving parent are included in the case of parental death; if both parents are deceased, no parental income or assets shall be reported. Stepparents' income is included according to current law conditions.

♦ **Adjustment for various enrollment periods.** The treatment of parental contributions for enrollment periods other than 9 months is unchanged from current procedures.

♦ **Dependent student's income calculation.** The dependent student's contribution from available income is calculated by subtracting from the student's total base year income, the following offsets: federal income taxes, state and other income taxes, social security taxes, and $1,750 for income protection. Remaining income is assessed at 50 percent.

♦ **Dependent student's asset calculation.** The dependent student's contribution from assets is determined by taking 35 percent of the same types of assets as are assessed for the student's parents.

INDEPENDENT STUDENT METHODOLOGY--SINGLE OR MARRIED WITHOUT DEPENDENTS

♦ **Independent student (without dependents) EFC calculation.** The expected family contribution for the single or married independent student without dependents is the sum of the student's contribution from income and the student's contribution from assets, divided by the number of students enrolled or accepted for enrollment on at least a half-time basis in a degree, certificate, or other program leading to a recognized educational credential. The expected family contribution may not be less than zero.

♦ **Independent student (without dependents) income calculation.** For this category, the available income contribution is calculated by subtracting from total base year income the following: federal income taxes, state and other taxes, social security taxes, an allowance for income protection ($3,000 for single students, $3,000 for married students if both are enrolled, and $6,000 for married students if only one is enrolled), and for married students if the spouse works, an employment allowance. Remaining income is assessed at 50 percent.

♦ **Independent student (without dependents) asset calculation.** The contribution from assets considers current cash/savings/checking, the net value of investments and real estate (excluding principal place of residence), and adjusted net worth of business and farm (except the family farm on which the family resides). From these assets, an asset protection allowance is subtracted; the remainder is assessed at 35 percent. The resulting contribution from assets may not be less than zero.

INDEPENDENT STUDENT METHODOLOGY--SINGLE OR MARRIED WITH DEPENDENTS

♦ **Independent student (with dependents) EFC calculation.** The expected family contribution (EFC) for independent students with dependents other than a spouse is calculated by adding the available income contribution and the contribution from assets. The resulting adjusted available income (AAI) is assessed according to a schedule, at 22 percent to 47 percent, with the remainder divided by the number of family members enrolled or accepted for enrollment on at least a half-time basis in a degree, certificate, or other program leading to a recognized educational credential. The EFC may not be less than zero.

♦ **Independent student (with dependents) income calculation.** For this category of students, the **income analysis** begins with total base year income and subtracts the following: federal income taxes, state and other taxes, social security taxes, an allowance for income protection, and an employment allowance. Remaining income is called available income. A negative available income is permitted. [Note that the offsets for medical/dental expenses and elementary/secondary tuition expenses have been eliminated.]

♦ **Independent student (with dependents) asset calculation.** The asset analysis for this category provides for the consideration of current cash/savings/checking, the net value of investments and real estate (excluding principal place of residence), and adjusted net worth of business and farm (except the family farm on which the family resides). From these assets, an asset protection allowance is subtracted; the remainder is assessed at 12 percent. The resulting contribution from assets may not be less than zero.

♦ **Simple needs test.** The simplified needs test threshold is extended to families with adjusted gross incomes of less than $50,000. This applies to all dependent and independent student families not filing an IRS form 1040. For dependent students, only the parents' income is included determining in the $50,000 level. Data elements are limited to: adjusted gross income, Federal income taxes paid, untaxed income and benefits, number of family members, number of family members in postsecondary education, and an allowance for state and other taxes.

♦ **Automatic zero EFC.** A zero family contribution will be expected for any dependent student or independent student with dependents other than a spouse with adjusted gross income less than or equal to the maximum amount that may be earned in order to claim the maximum Federal earned income credit. Currently, this income level is approximately $11,300. For purposes of making this determination, the dependent student's parents' income or the income of the student (and spouse, if any) is used.

♦ **Financial aid administrator discretion.** Current authority is maintained for all title IV programs, except that it is specified that no fee may be charged to any parent or student for the collection, processing, or delivery of supplementary information for the purpose of professional judgment decisions.

♦ **Income definition.** Total base year income is comprised of adjusted gross income plus untaxed income and benefits (EXCLUDING veterans' education benefits).

♦ **Tuition prepayment plans.** Treatment of tuition prepayment plans is standardized by requiring that such amounts be subtracted from the student's cost of attendance and shall not be considered estimated financial assistance OR, if the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.

♦ **Independent student definition.** The independent student definition is modified to exclude conditional criteria. As a result, an ''independent student'' is defined as one who is 24 years or older by December 31 of the award year or is: an orphan or ward of the court; a veteran; a graduate/professional student; a married student; a student who has legal dependents other than a spouse; or a student who has other unusual circumstances.

PART G--GENERAL PROVISIONS

♦ **General effective date.** Unless otherwise noted, the changes to Part G are effective on the date of enactment.

♦ **Specified effective dates.** Correspondence program restrictions are effective on and after October 1, 1992.

Ability-to-benefit restrictions are effective on and after October 1, 1992.

Ability-to-benefit changes for tests and alternative processes are effective on and after October 1, 1992.

Changes for foreign medical schools are effective on and after October 1, 1992.

Changes made dealing with eligible programs are effective July 1, 1993.

The 1993-94 award year is set as the beginning date of the delivery system changes required by this Reauthorization.

Restrictions on eligible telecommunication programs are effective on or after October 1, 1992.

Limitations on the percentage of incarcerated students enrolled at an institution are effective on and after October 1, 1992.

Exit counseling requirements are effective with respect to enrollment periods beginning on or after July 1, 1993.

Inter-program transfers are effective for award years beginning on or after July 1, 1993.

Changes made in the use of administrative expense funds are effective for award years beginning on or after July 1, 1993.

♦ **Delivery System Modifications**

The Conferees made changes in the delivery system as follows:

♦ **1. Effective date.** The 1993-94 award year is set as the beginning date of the delivery system changes required by this Reauthorization.

♦ **2. Single form required.** In cooperation with representatives of agencies and organizations involved in student financial assistance, the Secretary must produce, distribute, and process a common financial reporting form to be used to determine the need and eligibility of a student for Title IV financial assistance (other than SSIG) and to determine the need of a student for Part B loans. For the purpose of collecting eligibility and other data for the purpose of part B loans, the Secretary shall develop a separate identifiable loan application document that applicants or institutions in which the students are enrolled, or accepted for enrollment, must submit directly to eligible lenders on which the applicant shall clearly indicate a choice of lender.

♦ **3. Free form.** No student or parent can be charged a fee for the collection, processing, or delivery of federal financial aid through use of this form. The need and eligibility of a student for such financial aid and the need of a student for a Part B loan may only be determined by using the form developed by the Secretary nor may a student receive such assistance or have the student's need established for Part B except by use of the form developed by the Secretary.

♦ **4. Eight non-financial data elements for states.** The Secretary may include on the common form not more than eight non-financial data elements. These non-financial data elements are to be selected by the Secretary, in consultation with the states, to assist the states in awarding state student aid.

♦ **5. Institution access to data without charge.** Postsecondary institutions and states shall receive, without charge the data collected by the Secretary using the common form, for the purposes of determining need and eligibility for institutional and state financial aid awards.

♦ **6. Contracts for collection and processing.** To the extent practicable, the Secretary is to enter into not less than five contracts with states, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the common form and the timely delivery of the data submitted. The Secretary is required to uses such contracts to assist states and postsecondary institutions with the collection of additional data required to award state or institutional financial assistance, except the Secretary is prohibited from including these additional data items on the common financial reporting form. To the extent practicable, the Secretary is to ensure that at least one contractor, or portion of one contract, will serve graduate and professional students.

♦ **7. Charges for additional data items.** In the contracts is a requirement that any charges by the contractor to students or parents for additional data items required by a state or postsecondary institution for any purpose, regardless of the method of collection, must be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary. Further, the contractor must require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted by law for any such additional data.

♦ **8. Further contractor requirements.** (1) As part of the procurement process for the 1993-94 award year, and for all procurements thereafter pertaining to the contracts, the Secretary requires all entities competing for such contracts to comply with all requirements and to use the common financial reporting form which is to be clearly identified as the "Free Application for Federal Student Aid," and, (2) to use a common, simplified reapplication form prescribed by the Secretary in each award year. (3) For processing applications, for issuing eligibility reports,

and for carrying out other services or requirements that may be prescribed by the Secretary, all approved contractors are to be reimbursed by the Secretary at a reasonable predetermined rate. (4) All contractors are required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency. (5) No approved contractor can enter into exclusive arrangements with guarantors, lenders, secondary markets, or postsecondary institutions for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's written approval.

♦ **9. Streamlined reapplication process.** (1) Within 240 days of enactment of the Reauthorization bill, the Secretary must develop a streamlined reapplication form and process, including electronic reapplication for those recipients who reapply for Title IV financial aid in the next succeeding academic year subsequent to the initial year in which such recipients apply. (2) The Secretary must develop appropriate mechanisms to support reapplication. (3) In cooperation with states, postsecondary institutions, agencies, and organizations involved in student financial assistance, the Secretary shall determine the data elements that can be updated from the previous academic year's application. (4) Nothing in Title IV can be interpreted as limiting the Secretary's authority to reduce the number of data elements required of reapplicants. (5) Individuals determined to have a zero family contribution according to the Simplified Needs Test are not required to provide any financial data, except that which is necessary to determine eligibility under that section.

♦ **10. Preparers of applications.** Any financial aid application required shall include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.

♦ **11. Delivery system report language.** The Conferees added the following report language to clarify the changes made in the Act regarding the delivery system. The language follows:

"1.) The Conferees recognize that the majority of students who receive assistance under this title also receive aid from states, institutions and other private sources, each of which may require additional data of students and families beyond that provided by the common financial reporting form. By requiring the Secretary to use such contracts to assist states and institutions with the collection of supplemental data, we intend to make the process as simple as possible for those students from whom such information might be required. Although we require such data to be collected on a form separate from the common federal reporting form, the contractors may develop and publish non-federal forms and distribute such forms together with the federal form and students may submit them for processing along with the common federal reporting form. We explicitly authorize the simultaneous distribution of federal and non-federal applications and materials. We envision that the federal and non-federal applications and materials may be returned by students and families in the same envelope to the contractor.

"Further, the Conferees are aware of the potential difficulties of integrating federal and non-federal data that may be transmitted to institutions and states on different schedules or through different technological means. Thus, the Conferees intend to permit federal and non-federal data to be transmitted simultaneously from the contractors to states and institutions in order to expedite the timely awarding and distribution of student aid funds to eligible students, providing that the use of such federal data has been approved by the Secretary.

"2.) The Conferees expect that the requirement that the Secretary 'produce' the common financial reporting form will not be interpreted to preclude the Secretary from contracting with any appropriate vendor for the actual printing and production of this form. The conferees wish to strongly emphasize the responsibility of the Secretary of Education to produce an adequate supply of the common financial reporting form. The conferees further emphasize the responsibility of the Secretary to deliver an adequate supply of the common financial reporting form to institutions, schools, community agencies, individuals and others in a timely manner.

"3.) It is the intent of the Conferees that state student aid program application questions be included within the common financial reporting form to facilitate student access to postsecondary education and the administration of the State Student Incentive Grant (SSIG) program. It is also the intent of the Conferees that the Secretary consult with the states and their representative organizations, such as the National Association of State Scholarships and Grant Programs, in determining the appropriate state questions."

♦ **Program participation agreements are modified in the following ways:**

♦ **1. Provision of administrative capability and financial responsibility information.** Program participation agreements currently require institutions to establish and maintain such administrative and fiscal procedures, and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under Title IV. An additional requirement has been appended to this provision mandating institutions, upon request and in a timely fashion, provide to the Secretary, state review agency designated under Part H, guaranty agency, or accrediting agency such information relating to the administrative capability and financial responsibility of the institution.

♦ **2. Job licensing disclosure.** Amends program participation agreements to require institutions that advertise job placement rates inform all students by the time of application of the relevant job licensing requirements.

♦ **3. Study abroad.** Program participation agreements will mandate institutional agreement that Title IV eligible students will not be denied any form of federal financial aid on the grounds that a student is participating in a program abroad approved for credit by the institution.

♦ **4. Default management plan.** Program participation agreements will require new institutions, including branches, and changes of ownership to automatically enter a two-year Default Management Plan.

♦ **5. Sharing information.** Program participation agreements will require any information on Title IV institutional eligibility or information on fraud and abuse may be shared among the Secretary, lenders, guaranty agency, accrediting agencies, state review agencies designated under Part H, and the Veterans Administration.

♦ **6. Employment of individuals and use of entities with Title IV violations.** Program participation agreements are modified to prohibit institutions from knowingly employing anyone previously convicted of fraud in connection with Title IV funds. Further applies this prohibition to any organization which the institution may utilize or contract with. Institutions are to make a good faith effort to obtain this information and implement this standard.

♦ **7. Participation in data collection.** Program participation agreements will require institutions to complete surveys conducted as part of any federal data collection effort.

♦ **8. Athletic information.** As part of the program participation agreement, institutions that offer athletically-related student aid must report information on revenues and costs.

♦ **9. Prohibition on late fees for delayed disbursement of loans.** Program participation agreements will prohibit institutions from imposing a late fee, dropping from enrollment, or otherwise penalizing any student solely because an installment of the student's loan proceeds is delayed because of the statutory late disbursement requirements.

♦ **10. Commissioned sales and incentive payments.** As part of a program participation agreement, institutions are prohibited from providing any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or

admission activities or in making decisions regarding the award of student financial assistance. But, allows the use of commissioned sales for recruiting foreign students who are ineligible for Title IV assistance. The Conference Report includes the following language regarding this issue: "The Conferees note that substantial program abuse has occurred in the student aid programs with respect to the use of commissioned sales representatives. Therefore this legislation will prohibit their use. The Conferees wish to clarify, however, that use of the term "indirectly" does not imply that schools cannot base employee salaries on merit. It does imply that such compensation cannot solely be a function of the number of students recruited, admitted, enrolled, or awarded financial aid."

♦ **11. Cooperation with review entities.** Institutions, as part of its participation agreement, must meet the requirements established by the Secretary, state postsecondary review entity, and accrediting agencies regarding the program integrity section of the law, Part H.

♦ **12. Refunds** Must comply with the HEA's refund policy as certified in the institution's program participation agreement.

♦ **Ability-to-benefit changes.** For an individual to qualify for Title IV assistance who does not have a high school diploma, or the recognized equivalent of such certificate, the student must meet EITHER of the following standards: (1) Take an independently administered examination and achieve a score, specified by the Secretary, demonstrating an ability to benefit from the program. The examination will be approved by the Secretary on the basis of compliance with standards for development, administration, and scoring prescribed in regulations, OR, (2) A student will be judged as having the ability to benefit in accordance with a process that a state shall prescribe. Unless the Secretary disapproves such a process, approved or described by a state within six months of submission to the Department, it will take effect. The Secretary's decision will take into account the effectiveness of the process in enabling students without high school diplomas, or their equivalent, to benefit from the instruction utilizing the process and, also, will take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions. The Conference Report has the following language: "The conferees clarify the language on the ability-to-benefit testing provision to ensure that the passing score required for a particular test is related to the education or training that is being offered. The conferees are aware that some widely-used, well-documented tests may be approved for use with a number of different programs. The score that a prospective student would need to achieve for a program leading to one career may be different from the score, on the same test, for a program that demands a different skill level or cognitive ability." Effective on and after October 1, 1992.

♦ **Correction of inadvertent loan limit violation.** A student inadvertently may borrow Part B, D, or E loan amounts violating either annual or aggregate loan limits and lose Title IV eligibility. The law is changed so that such a student, as long as he or she did not fraudulently borrow loan amounts in violation of the law, can regain Title IV eligibility by repaying the amount in excess of the limits.

♦ **Aid eligibility extension for teachers.** Extends student eligibility for Part B, Part D, and Perkins Loans, and CW-S to individuals, attending at least half-time, pursuing a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state. This eligibility is backdated to December 1, 1987.

♦ **Aid eligibility extension for those already possessing a degree.** Allows student eligibility for Part B, Part D, and Perkins Loans, and CW-S to students possessing a baccalaureate or professional degree.

♦ **Correspondence program restrictions.** Prohibits students from receiving Title IV assistance for any correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree. Eliminates from Title IV eligibility any institution that offers more than 50 percent of its courses by

correspondence, unless the institution meet the definition in section 541(4)(C) of the Carl D. Perkins Vocational and Applied Technology Act, OR enrolls 50 percent or more of its students in correspondence courses. Effective on and after October 1, 1992.

♦ **Ability-to-benefit restriction.** Any institution with more than 50 percent of its enrollment consisting of ability-to-benefit students AND does not provide a four- or two-year program of instruction, or both, for which it awards a bachelor's or associate's degree is ineligible for Title IV assistance. Effective on and after October 1, 1992.

♦ **Eligible program definition and short-term program loan requirements.** Courses of study of less than 600 hours are eliminated from Title IV eligibility, unless the institution can prove a verified graduation rate and job placement rate of 70 percent (according to regulations issued by the Secretary). This new definition would not apply if such short-term programs require at least an associate's degree for admission. For Title IV purposes the term "eligible program" means a program of at least (1) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks in the case of a program that (a) provides a program of training to prepare students for gainful employment in a recognized profession and, (b) admits students who have not completed the equivalent of an associate degree; or (2) 300 clock hours of instruction, 8 semester hours, or 12 quarter hours, offered during a minimum of 10 weeks, in the case of (a) an undergraduate program that requires the equivalent of an associate degree for admissions or (b) a graduate or professional program. Further, the Secretary is to develop regulations to determine the quality of programs of less than 600 hours in length. Such regulations will require, at a minimum, that programs have a verified rates of completion and placement of at least 70 percent. Notwithstanding the definition of "eligible program" described above, and pursuant to the Secretary's regulations, the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours to be eligible to participate in Part B loan programs. Effective July 1, 1993.

♦ **Title IV income rule for proprietary schools.** Eliminates from Title IV eligibility any proprietary school that derives more than 85 percent of its revenues from Title IV funds. Such determinations are to be made in accordance with regulations prescribed by the Secretary.

♦ **Sound administration.** When determining institutional eligibility, the Secretary has the general authority to consider any additional matters he deems appropriate for the sound administration of financial aid programs, including the pertinent actions of those exercising control over a school.

♦ **Substantial control violations.** Permits the Secretary to extend actions against any entity or individual that has substantial control if the entity or individual has violated any aspect of the student aid programs at any school at which he or she has substantial control. The Secretary may use such a violation as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

♦ **Automatic ineligibility for bankruptcy or fraud.** Any institution is automatically ineligible for Title IV funds that files for bankruptcy or if its owner, or its chief executive officer has been convicted of, pled nolo contendere or guilty, to a crime involving the acquisition, use, or expenditure of Title IV funds or has been judicially determined to have committed fraud.

♦ **Student and institutional eligibility rules for incarcerated individuals.** No inmate may receive a Title IV loan. Eliminates from Title IV eligibility any institution whose incarcerated student enrollment is greater than 25 percent. There is, however, a Secretarial waiver of this 25 percent provision for a non-profit institution that provides a four- or two-year program of instruction (or both) for which it awards a bachelor's or associates' degree. This is effective on and after October 1, 1992.

♦ **Telecommunications requirements.** Stipulates telecommunications courses are not to be considered correspondence courses provided only if the total amount of telecommunications and correspondence courses at the institution (with an exemption for area vocational schools meeting the definition in section 541(4)(C) of Carl D. Perkins Vocational and Applied Technology Education Act) is less than 50 percent of all courses offered AND the course of instruction leads to a recognized associate, bachelor or graduate degree. Preceding sentence is effective on or after October 1, 1992. A student's Title IV eligibility shall be reduced because of enrollment in telecommunications courses if the financial aid administrator, using professional judgment, determines that such courses lead to a substantially reduced cost of attendance. Also, defines telecommunications devices or mediums. Finally, requires the Secretary to take no action against a student or institution for the prior award of student aid if the institution can demonstrate to the Secretary that its course of instruction would have been in conformance with the specifications of these provisions.

♦ **Loans for study at foreign institutions.** Allows eligible students attending foreign institutions to participate in the Part B programs as in current law. Foreign medical school eligibility has the added requirements to current law that students from foreign medical schools have a 60 percent pass rate on the examination offered by the Educational Commission for Medical Graduates, that at least 60 percent of the school's graduates are non-U.S. citizens, or the institution's clinical training program was approved by a state as of January 1, 1992. Effective on and after October 1, 1992.

♦ **Refunds.** Institutions are required to have a fair and equitable refund policy for Title IV programs refunding students, or parents for a PLUS loan, unearned tuition, fees, room and board, and other charges for periods of time if a student does not register, withdraws, or otherwise fails to complete the period of enrollment. These provisions for refunds are required only for students attending the institution for the first time. To be considered fair and equitable, the policy must provide for a refund in an amount of at least the largest of (1) the requirements of an applicable state law; (2) the specific refund requirements established, and approved by the Secretary, by the school's nationally recognized accrediting agency; or, (3) the pro rata refund calculation required by law (described below), except that this provision will not apply to the institution's refund policy for any student whose withdrawal date is after the 60 percent enrollment period in time for which the student has been charged.

Pro rata refund is defined as a refund to a student of not less than that portion of the tuition, fees, room and board, and other charges assessed the student equal to the portion of the enrollment period for which the student has been charged that remains on the last day of attendance rounded downward to the nearest ten percent of that period, MINUS any unpaid student charges, and MINUS a reasonable administrative fee. A reasonable administrative fee is defined as the lesser of five percent of tuition, fees, room and board and other charges or $100.

The period of enrollment is defined as: (1) For programs measured in credit hours, dividing the total number of weeks comprising the enrollment period for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance; (2) For programs measured in clock hours, dividing the total number of clock hours comprising the enrollment period for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance; and, (3) For a correspondence program, dividing the total number of lessons comprising the enrollment period for which the student has been charged into the total number of lessons not submitted by the student.

Refunds are required to be credited to the following programs in this precise order: outstanding balances on Part B, D, and E loans, awards for Pell, SEOG, and the CW-S programs, to other Title IV student assistance programs, and, finally, to the student.

♦ **Secretary's authority to verify applications.** Clarifies the Secretary may verify all aid applications through the use of any means available, including utilization of information exchanges with other federal agencies.

♦ **Selective Service.** In the enforcement of the Selective Service registration requirements, the Secretary is required to conduct database matches with the Selective Service system. Appropriate confirmation, through an application output document or through other means, of any person's registration will fulfill the requirement to file a separate statement of compliance. In the absence of a data match confirmation, a school may also use data or documents that determine the student's registration status to fulfill the separate statement of compliance requirement. The Secretary will prescribe regulations for the reporting mechanism for the resolution of non-confirmed matches.

♦ **Social security number verification requirements.** In cooperation with the Commissioner of the Social Security Administration, the Secretary is required to verify any student's social security number. The Secretary shall enforce the following conditions: If the Secretary determines that a social security number is incorrect, then the school shall deny or terminate Title IV assistance until the student provides the correct number. If the student cannot provide the correct number and a student's Part B loan has been guaranteed, then the school shall notify and instruct the lender and guaranty agency to cease further loan disbursements, but the guaranty is not voided for disbursements made before the notification date. The Secretary is not permitted to take any compliance, disallowance, penalty, or other regulatory action against (1) any institution with respect to any social security number error, unless the error was a result of fraud on the part of the institution; OR, (2) against any student with respect to any social security number error, unless the error was a result of fraud on the part of the student. Except for the above conditions an institution is not permitted to deny, reduce, delay or terminate a student's Title IV eligibility because social security number verification is pending.

♦ **Social security number.** All students are required to obtain Social Security numbers.

♦ **Immigration status verification and applicants for asylum.** Requires the Secretary to establish an immigration status verification system to serve in lieu of the current requirements for documentation under the Immigration and Nationality Act. Retains the current Section 484(h)(4) appeals process. Further, Conference Report language directs the Secretary to study the issue, determine the number of students, and work with the appropriate federal agencies to develop a policy by December 31, 1992 dealing with Title IV student eligibility for groups of individuals in this country whose immigration status falls into the category of applicant for asylum.

♦ **National Student Loan Data System.** Makes a number of alterations to the National Student Loan Data System (which currently is not operational) to ensure information compatibility, electronic data exchange, uniform data reporting formats, and integration of all student aid data bases by January 1, 1994. Also, the first priority for implementation in the National Student Loan Data System is to provide for monitoring enrollment, student status, internship and residency information, identification of current loan holders, and providing borrower access to status and holder information.

♦ **Annual audits.** All program participants are required to conduct annual compliance and financial audits. Institutional audit information is to be made available by the Secretary to guaranty agencies, lenders, state agencies, accrediting agencies, and, also, federal agencies with student aid responsibilities.

♦ **Refund after audit.** If an audit shows that the institution was owed money by the Department, the Department must refund that money and the provision is applied to any audit conducted after December 31, 1988 as required by the appropriate subsection of the HEA.

♦ **Regulations required.** The Reauthorization bill requires the Secretary to prescribe regulations in the area of audits, the financial stability of schools, and the enforcement of standards.

♦ **Exit Counseling.** Effective with respect to enrollment periods beginning on or after July 1993. Retains the current exit counseling requirements, with the exception of providing general information on student indebtedness.

BEST COPY AVAILABLE

Additional exit counseling information mandated includes expansion of the information students currently receive on Peace Corps and community service deferments and cancellations to include information on all deferments and cancellations. During the exit interview the institution is to acquire from the borrower their expected permanent address after leaving the institution, name and address of the borrower's expected employer, the address of the borrower's next of kin, and any corrections in the institution's records relating to the borrower's name, address, Social Security number, references, and driver's license number. The Conferees expect this information be shared with lenders by the guaranty agencies. These provisions also would apply to students attending institutions participating in the new Part D, Direct Lending Demonstration Program.

♦ **Information line and services to students with disabilities.** The toll-free student financial aid information line is to include TDD services to provide access for the deaf and to refer students with disabilities and their families to the national clearinghouse on postsecondary education authorized under Section 633(c) of the Individuals with Disabilities Act.

♦ **Campus crime.** Section 485(f) of the HEA (Disclosure of Campus Security Policy and Campus Crime Statistics) is modified to make institutions responsible for developing policies, procedures dealing with, and educational awareness concerning sexual offenses. Amends the collection period dates for crime statistics to be reported each year as currently required and phases in new dates. Creates a $10 million authorization for a grant program for sexual offenses education and prevention programs as part of Title XII.

♦ **Academic year definition.** The definition of academic year is modified to require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.

♦ **Master calendar.** Tightens the provisions of the Master Calendar so that any Title IV regulatory changes initiated by the Secretary not published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date.

♦ **Single lender, Single loan requirements.** To the extent practicable, borrowers would be kept with a single lender, holder, guaranty agency, and servicer and, to the extent practicable, all loans by a single borrower be treated as one for purposes of repayment and deferment.

♦ **Single identification number.** Each institution, lender, and guaranty agency is required to be assigned a single identification number for use in all Title IV programs.

♦ **On the record hearings.** Hearings before the Department no longer may be "on the record." However, institutions may record such hearings, but the availability or lack of availability of any such record cannot delay any proceeding, hearing, or implementation of an action.

♦ **Criminal penalties.** Criminal penalties for fraud and abuse are increased. Failure to pay refunds is specifically added to the list of criminal acts and the Conferees emphasize that failure to pay refunds does constitute criminal misapplication under current law; this legislative language is added as a clarification.

♦ **Illegal inducement clarification.** The Conference agreement clarifies current law prohibiting the making of payments to an eligible lender under the Guaranteed Student Loan Program to induce the lender to make or acquire by purchase a GSL, or attempts to make such payments, and substantially increases the penalty for such acts. The Conference Report includes the following language, "The Secretary has previously promulgated regulations at 34 CFR §682.212(a) that define the nature of the prohibited transactions. Sec. 682.212(b)(1), which specifies that 'cash payments by or on behalf of a school made to a lender or other party,' properly reflects the Congress' intent

that such payments to lenders be prohibited, whether made by the institution itself or through the intermediation of a third party. However, it has come to the conferees' attention that the regulation has been interpreted by the Department to preclude an institution's use of an independent contractor to carry out activities that could lawfully be performed by the institution itself. Section 490(c) is intended to prohibit certain transactions, whether made by the institution or by another party acting as a surrogate for the institution, that create a financial inducement for a lender to make or acquire loans. It has never been the intention of the Congress to prohibit acts by third parties that, if performed by the institution, would be lawful. We urge the Secretary to clarify the interpretation of the regulation so as not to unduly restrict institutions in the proper exercise of their responsibilities under these programs. The conferees recognize that the Secretary may review contracts between institutions and consultants to assure no prohibited inducements occur or are encouraged under such contracts. The conferees direct the Secretary to undertake appropriate reviews using this authority."

♦ **Training.** Revises the law's current provision by authorizing $5 million in FY-93 and such sums in the out-years for a program of financial aid training for student financial aid administrators and TRIO personnel.

♦ **Quality control project.** The QC Project is renamed "Quality Assurance Program" and authorized in the Act. It establishes a voluntary program through which institutions may develop alternative management activities to test ways to improve the management of the Title IV programs.

♦ **Inter-program transfers.** The inter-program transfer provision is modified so that institutions may transfer up to 25 percent of their allotments in Perkins Loans to SEOG or CW-S, or both programs, and transfer up to 25 percent from CW-S to SEOG. Effective for award years beginning on or after July 1, 1993.

♦ **Use of administrative expense funds.** Institutions are required to use a reasonable proportion of their federally-provided administrative funds to provide financial aid services to part-time and independent students during times and in places that will most effectively accommodate the needs of such students. Effective for award years beginning on or after July 1, 1993.

♦ **Advisory Committee on Student Financial Assistance.** The Reauthorization Conference Report increases the budget of the Advisory Committee on Student Financial Assistance, makes changes to ensure its independence, and broadens its charge. The Advisory Committee is to specifically monitor and evaluate the changes made by the Reauthorization bill, the application for student aid, the simplified reapplication process, the adequacy of early needs assessment and information efforts, the methods of monitoring student debt burden, and conduct a student loan program simplification study.

♦ **Negotiated rule-making.** The Reauthorization legislation establish a new process called negotiated rule-making for the issuance of new regulations with respect to Parts B (Federal Family Education Loans), G (General Provisions), and H (Program Integrity) of Title IV. For Part B, G, and H of Title IV the Secretary is required to convene regional meetings to obtain public involvement in the development of proposed regulations. These meetings will consist of individuals, and representatives of groups, involved in the student financial assistance programs. At the meetings the Secretary is required to provide for a comprehensive discussion and exchange of information concerning the implementation of these sections of the law as amended by the Reauthorization legislation. The Secretary is required to take into account the information received at the regional meetings in the development of regulations. At the conclusion of the regional meetings, but before publishing proposed regulations, the Secretary is to prepare draft regulations implementing Parts B, G, and H and shall submit the draft regulations to a negotiated rule-making process which will follow the procedures mandated by the federal law governing the negotiated rule-making process. Participants in this stage of the negotiated rule-making process will be nominated by the regional groups with the requirement to include representatives of Washington, D.C. groups and industry participants. The negotiated rule-making task force is to be broadly representative reflecting the diversity in the industry. The negotiated rule making process shall be conducted in a timely manner in order that

the final regulations may be issued within the 240-day period required by the General Education Provisions Act (GEPA).

PART H--PROGRAM INTEGRITY

♦ **Effective date.** Changes made by Part H are effective on October 1, 1992, unless otherwise noted.

Subpart 1--State Postsecondary Review Program

♦ **General information and authorization.** The Secretary is authorized to enter into agreements that designate one state postsecondary review entity to be responsible for the conduct or coordination of reviews of postsecondary education institutions for determining Title IV eligibility. No state is required to perform these review functions, unless the Congress appropriates funds for this purpose. There is authorized $75 million in FY-93 and such sums in the out-years for the purpose of reimbursing states for carrying out the agreement.

♦ **Non-participation.** If any state declines to enter into an agreement with the Secretary, the Secretary undertakes the review process or may make arrangements with agencies or organizations of demonstrated competence in reviewing postsecondary institutions. Failure of a state to either enter into an agreement OR to meet the requirements of an agreement results in: (1) the Secretary may not designate as eligible for Title IV aid any new institution, including new branch campuses or any institution that has changed ownership; (2) the Secretary may grant only provisional certification for all institutions in the state; and, (3) the state is ineligible to receive funds for this review purpose, cannot receive SSIG funds or National Early Intervention Scholarship and Partnership Program funds.

♦ **State organization structures.** In the agreement, each state will describe the organizational structure responsible for implementing the reviews and the Secretary cannot mandate any particular organizational structure. States may form consortia of states for these review purposes. Nothing in the agreements can be construed as an authorization for the Secretary to withhold funds from any state or postsecondary institution on the basis of compliance with a state's constitution or law and cannot be construed as an authorization for any state postsecondary review entity to exercise planning, policy, coordinating, supervisory, budgeting, or administrative powers over any postsecondary institution.

♦ **Contents of agreements.** Agreements between a state and the Secretary are required to contain the following elements: (1) Designation of a single state postsecondary review entity which represents all entities of that state which are responsible for granting state authorization to every postsecondary education institution and ensures that each school remains in compliance with the required standards; (2) State review of institutions will coincide with the dates the Secretary sets to certify or recertify schools; (3) The state entity will perform the required authorized functions, keep records, provide the Secretary information requested for financial and compliance audits and program evaluation; (4) Provide a description of the relationship for the designated state agency and those other postsecondary review agencies mandated by federal law; and, (5) provide a plan for performing the review functions.

♦ **Initial review.** The Secretary is required to review all of a state's postsecondary institutions which are eligible, or desire to become eligible for Title IV aid, to determine if the institutions meet any of the review criteria that are itemized directly below this paragraph. The Secretary must inform states of any institutions that have met one or more of the review criteria and these institutions are required to be reviewed by the designated state review agency pursuant to prescribed standards that are explained later under ''review standards.'' States have the authority to initiate reviews, in addition to those institutions identified by the Secretary, which meet one or more of the review criteria based on more recent state data OR if the state has reason to believe are engaged in

fraudulent practices. If the Secretary fails to approve or disapprove a state request to review additional institutions within 21 days, the state may proceed to review such additional schools as if approved by the Secretary.

♦ **Review criteria.** The criteria for the initial review of postsecondary institutions are as follows and an institution which meets one or more of the criteria is required to be reviewed by the designated state review entity: (1) Has a cohort default rate equal to or greater than 25 percent; (2) Has a cohort default rate equal to or greater than 20 percent and EITHER (a) have more than two-thirds of the institution's total undergraduates, who are enrolled at least half-time, and receive Title IV assistance, except the SSIG and Byrd programs and PLUS loans OR, (b) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from Title IV programs, except the SSIG and Byrd programs and PLUS loans; (3) Two-thirds or more of the institution's education and general expenditures are derived from funds provided to students from the Pell Grant Program; (4) During the preceding five years, the Secretary placed a limitation, suspension, or termination action against the institution; (5) During the two most recent years, has had an audit finding resulting in the repayment by the institution of amounts greater than five percent of Title IV funds received by the school; (6) Has a citation from the Secretary for failure to submit required audits in a timely fashion; (7) A year-to-year fluctuation of more than 25 percent in the amounts received by enrolled students from the Pell Grant, Stafford or SLS loan programs which are not accounted for by changes in these programs; (8) Fails to meet financial responsibility standards of Part H; (9) Has a change of ownership of the school that results in a change of control which includes, but is not limited to (a) the sale of the institution or the majority of its assets, (b) the division of one or more institutions into two or more institutions, (c) the transfer of the controlling interest in stock of the institution or its parent corporation, (d) the transfer of the controlling interest of stock of the institution to its parent corporation, or (e) the transfer of the institution's liabilities to its parent corporation; (10) Except for any public institution affiliated with a state system of higher education, participation for less than five years in the Pell Grant, SEOG, Part B Loan, CW-S, and Perkins Loan programs; (11) Has a pattern of student complaints related to the management or conduct of the Title IV programs or relating to misleading or inappropriate advertising and promotion of the institution's program which in the Secretary's judgment are sufficient to justify review of the institution.

♦ **Review standards.** Institutions, meeting one or more of the review criteria, are to be reviewed by the designated state entity in accordance with published standards that are consistent with the state's constitution and laws; standards that are developed in consultation with the state's postsecondary institutions; and the standards are subject to disapproval by the Secretary. The reviews are to determine the following: (1) The availability to students, and prospective students, of catalogs, admissions requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution. (2) Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied. (3) Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records. (4) Compliance with relevant safety and health standards, such as, fire, building, and sanitation codes. (5) The school's financial and administrative capacity appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution. (6) For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the school closes. (7) If the stated objectives of the institution's courses or programs are to prepare students for employment, the relationship of tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs, including the appropriateness of the length of courses, to providing the student with quality training and useful employment in recognized occupations in the state. (8) Availability to students of relevant information including information relating to market and job availability for students in occupational, professional, and vocational programs and information regarding the relationship of courses to specific standards necessary for state licensure in specific occupations. (9) The

appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses. (10) Assess the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for Title IV programs. (11) The adequacy of procedures for investigation and resolution of student complaints. (12) The appropriateness of advertising, promotion, and student recruitment practices. (13) That the institution has a fair and equitable refund policy to protect students. (14) The success of the program at the institution, including (a) the rates of the school's students' program completion and graduation (taking into account program length and the selectivity of admissions policies); (b) withdrawal rates; (c) for vocational and professional programs, the graduate's rates of placement in occupations related to their course of study; (d) the performance of the school's graduates on licensure examinations; and, (e) the variety of student completion goals, including transfer to another institution, full-time employment in their field of study, and military service. (15) The state will contract with an appropriate approved accrediting agency or association or another peer review system, with demonstrated competence, in assessing programs to carry out a review or provide information regarding the agency's or association's assessment of the following: The quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for the courses or program offered, including the adequacy of the space, equipment, instructional materials, staff, and student support services for providing education and training that meets such stated objectives. The designated state review agency may not substitute either accreditation by a private accrediting agency or body or compliance audits performed by a state guaranty agency for the state review of compliance with these standards. State review entities are prohibited from performing financial and compliance audits required by the HEA.

♦ **Prohibition on unrelated requirements.** The Secretary shall not require a state to establish standards that are unrelated to ensuring institutional or program integrity or that violate the provisions of a state's constitution or laws.

♦ **Institutional ineligibility.** A state postsecondary review entity may determine that an institution shall not be eligible to participate in Title IV programs based on its own findings or the findings of a federal entity. The state review entity must notify the Secretary of its findings that the institution does not meet one or more the review standards and the actions the entity is taking, or has taken, within a time period prescribed by the Secretary. Upon receipt of a notification of ineligibility, the Secretary is required to immediately terminate the institution's Title IV participation. If the Secretary, or another federal entity, takes, or plans to take, any action against a school the Secretary must notify the appropriate state postsecondary review entity within a prescribed time period determined by the Secretary. By regulation, the Secretary will prescribe minimum procedural standards for the disapproval of institutions by the state review entity.

♦ **Consumer complaints.** In consultation with postsecondary institutions, a state will establish and publicize the availability of procedures for receiving and responding to complaints from students, faculty and others about schools and will keep records of complaints to determine their frequency and nature.

Subpart 2--Accrediting Agency Approval

♦ **Accreditation.** Makes a number of changes to the federal accrediting approval process and accreditation agency requirements. Provides for a systematic review and approval by the Secretary of accrediting bodies, but limits the Secretary to approving only accrediting bodies that accredit institutions for purposes of Title IV eligibility or that accredit institutions or programs for other federal purposes.

Subpart 3--Eligibility and Certification Procedures

♦ **General.** For purposes of qualifying postsecondary institutions for Title IV participation, the Secretary shall determine the legal authority to operate in a state, the accreditation status, and the administrative capability and financial responsibility of the institution in accordance with the requirements that follow.

♦ **Single application form.** The Secretary is required to prepare and prescribe a single application form which (1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, and capability of the institution are met; (2) requires a specific description of the relationship between a main campus and all of its branches, including a description of the student aid processing that is performed by the main campus and the branches; (3) requires a description of third-party servicers for the school, together with a copy of any contract with the school and a financial aid service provider or loan servicer; and, (4) requires any other information the Secretary determines will ensure compliance with Title IV requirements with respect to eligibility, accreditation, administrative capability and financial responsibility.

♦ **Financial responsibility standards.** The Secretary determines whether an institution meets financial responsibility standards required by this title on the basis of whether the institution is able (1) to provide the services described in its official publications and statements; (2) to provide the administrative resources necessary to comply with Title IV requirements; and (3) to meet all of its financial obligations, including, but not limited to, refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

Notwithstanding the above paragraph, if an institution fails to meet criteria prescribed by the Secretary with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits, then the institution must provide the Secretary with satisfactory evidence of its financial responsibility IF (1) the institution submits to the Secretary third-party financial guarantees (performance bonds or letters of credit payable to the Secretary) equal to not less than one-half of the annual potential Title IV liabilities, loan obligations for deceased, bankrupt or disabled borrowers, and student refunds; (2) the school has its liabilities backed by the full faith and credit of a state; (3) establishes with a report of an independent certified public accountant that the school is a going concern capable of meeting all of its financial obligations (listed); or (4) has met standards of financial responsibility prescribed by the Secretary.

The determination as to whether an institution has met the standards of financial responsibility in the above paragraph must be based on an audited and certified financial statement of the institution. The law details the standards for the financial statement. Further, to meet the financial responsibility standard the Secretary will establish requirements for the maintenance by the school of sufficient cash reserves to ensure the repayment of any required refunds. However, the Secretary will provide a process to exempt an institution from the cash reserve/refund standard if the institution is located in a state that has a tuition recovery fund that meets the Secretary's cash reserve standard, the institution contributes to the fund, and it has the legal authority to operate within the state.

♦ **Administrative capacity standard.** The Secretary is authorized to establish procedures and requirements relating to an institution's administrative capacities including consideration of past performance of institutions or persons in control of institutions with respect to student aid programs and the maintenance of records. Also, the Secretary may establish other reasonable procedures that will contribute to ensuring postsecondary institutions will comply with requirements for administrative capability.

♦ **Financial guarantees from owners.** In substantial detail, the law requires financial guarantees from participating institutions, those seeking to participate in Title IV programs, or from one or more individuals who exercise substantial control over an institution, in an amount, determined by the Secretary, to be sufficient to satisfy the institution's potential liability to the federal government, student aid recipients, and other Title IV program participants. Also, requires the assumption of personal liability, by one or more individuals who exercise substantial control over the institution for financial losses to the federal government, student aid recipients, and other Title IV program participants and for authorized civil and criminal monetary penalties. These provisions do not apply to institutions that (1) has not been subject to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding five years; (2) has not had, during its two most recent Title

IV audits, an audit finding resulting in the institution being required to repay an amount greater than five percent of the Title IV funds received; (3) meets, and has met, for the preceding five years the prescribed financial responsibility standards; and, (4) has not been cited during the past five years for failure to submit Title IV audits in a timely fashion.

♦ **Site visits and fees.** In acting on any application, the Department is required to conduct a site visit at each institution before certifying or recertifying its Title IV eligibility and the Secretary may charge a reasonable fee to cover the expenses of certification and site visits.

♦ **Time limitations on, and renewal of, eligibility.** Any current Title IV institution's eligibility will expire in accordance with a schedule prescribed by the Secretary, but not later than five years after the date of enactment of this law. The schedule will place a priority for certification expiration on those schools that meet the following criteria: (a) institutions subject to review by a state postsecondary review entity pursuant to Subpart 1 of Part H of the HEA OR, (b) other categories of institutions which the Secretary deems necessary. After the expiration of the institution's certification under the prescribed schedule or upon a request for initial certification, the Secretary may certify the eligibility of institutions for Title IV programs for a period not to exceed four years.

♦ **Treatment of branches.** For Title IV purposes, a branch of an eligible institution, defined by regulations from the Secretary, is a separate institution of higher education and must separately meet all Title IV requirements, except that a branch is not required to be in existence for two years prior to seeking such certification unless the institution was in existence as a branch for less than two years. The Secretary may waive the requirement of section 1201(a)(2) for a branch that is not located in a state, is affiliated with an eligible institutions, and was participating in one or more Title IV programs on or before January 1, 1992.

♦ **Miscellaneous provisions.** The law also deals with provisional certification and changes in ownership.

Program Review and Data

♦ **Program reviews.** In order to strengthen the Title IV administrative capability and financial responsibility provisions, the Secretary is required to conduct program reviews on a systematic basis designed to include all Title IV postsecondary institutions.

♦ **Priority.** The Secretary may give priority for program reviews to institutions that (1) have a Part B cohort default rate in excess of 25 percent OR which places the institution in the highest 25 percent of such institutions; (2) have a Part B default rate in dollar volume in the highest 25 percent of such institutions; (3) have a significant fluctuation in Stafford Loan volume or Pell Grant awards, or both, in the year for which the determination is made compared to the prior year; (4) have reported to have deficiencies or financial aid problems by a state postsecondary review entity or accrediting agency; (5) have high annual dropout rates; (6) is required to be reviewed by a state postsecondary review entity; and, (7) includes other institutions as deemed necessary by the Secretary for a program review.

♦ **Data.** The Secretary is required to establish and operate a central database of information on institutional accreditation, eligibility, and certification that includes all information available to the Department, along with all relevant information from the Secretary of Veterans Affairs, accrediting agencies, guaranty agencies, and states in their authorized review process outlined earlier in Subpart 1 of Part H.

♦ **Special administrative rules.** The Secretary is required to establish guidelines designed to ensure uniformity of practice in the conduct of programs reviews. The Secretary is required to review the regulations of the Department and the application of regulations to ensure uniformity of interpretation and application of regulations. The data required to be collected, as described in the previous paragraph, is required to be readily available to all

postsecondary institutions, guaranty agencies, states, and other organizations participating in Title IV. The Secretary is required to provide training to Department personnel, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews.

TITLE IX--GRADUATE PROGRAMS

♦ **Purpose**. The purposes of this title are: (1) To foster and support graduate and professional education; (2) to provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and (3) to provide support for students from underrepresented groups to complete masters and professional degree programs.

♦ **Administrative provision.** The Secretary is required to provide for coordinated administration and regulation of graduate programs under title IX to ensure that the programs are carried out in a manner most compatible with academic practices.

♦ **Prohibition of use for religious purposes.** Title IX funds are prohibited from being awarded for study at a school or department of divinity.

PART A--GRANTS TO INSTITUTIONS AND CONSORTIA TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION

♦ **Purpose.** The Secretary is authorized to make grants to institutions of higher education, or a consortia of institutions, (1) to enable them to identify talented undergraduate students who demonstrate financial need, and who are individuals from minority groups underrepresented in graduate education or are women underrepresented in fields of study in graduate education; and (2) to provide such students with an opportunity to participate in a program of research and scholarly activities at institutions designed to provide such students with effective preparation for graduate study.

♦ **Inclusion of women.** The current program is expanded to include women in fields in which they are underrepresented.

♦ **Use of funds.** Funds awarded to institutions shall be used only to provide direct fellowship aid, including need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution or consortium as approved by the Secretary.

♦ **Information collection.** The Secretary is directed to collect information on the student interns who have participated in the summer internship program and make the information available to institutions offering graduate programs as a means of identifying talented women and minority undergraduates for graduate study.

♦ **Authorization of appropriations.** $25 million is authorized for FY-93 and such sums as may be necessary for each of the four succeeding fiscal years.

PART B--PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAMS

♦ **Purpose.** The purpose is to provide, through institutions of higher education, a program of grants to assist in making available the benefits of masters and doctoral level, and professional education to individuals from minority groups underrepresented in masters, doctoral, and professional education and to women who are underrepresented in such education programs.

♦ **Awarding of funds.** 50 percent of the funds must be awarded to institutions for fellowships for masters and professional study, and 50 percent of the funds must be awarded for fellowships for doctoral study.

♦ **Equitable distribution of funds.** To the maximum extent feasible, the Secretary is required to ensure an equitable geographic distribution of awards, and an equitable distribution among eligible public and independent institutions of higher education.

♦ **Reallotment.** The Secretary is required to reallot unused amounts to institutions which can use the funds.

♦ **Applications.** Any eligible institution of higher education offering a program of postbaccalaureate study leading to a master's level, professional, or doctoral degree may apply for a grant.

♦ **Selection of institutions.** In making grants to institutions, the Secretary shall (1) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; (2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in professional and academic careers requiring master's level, professional, or doctoral degrees; (3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of such groups; and (4) take into account the applicant's success in providing students with access to careers in which women and minority groups are underrepresented.

♦ **Awarding priority.** Priority for awards is given to: (1) individuals from minority groups and women pursuing master's level or professional study in fields in which they are underrepresented; (2) individuals from minority groups and women pursuing master's level study leading to careers that serve the public interest; and (3) women and individuals from traditionally underrepresented groups undertaking doctoral study including those interested in entering the fields of science and mathematics.

♦ **Institutional payments.** The Secretary is required to pay (in addition to stipends paid to individuals under this program) to each institution, for each individual awarded a fellowship, $9,000 for 1993-94, to be adjusted annually thereafter according to the Consumer Price Index of inflation.

♦ **Amount of fellowships.** The fellowship stipend for new recipients is set at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Requirements for awards.** A student enrolled in a master's level, professional, or doctoral program is prohibited from receiving an award except during periods in which such student is maintaining satisfactory academic progress in, and devoting essentially full-time to study or research, or dissertation work in the field, and is not engaging in employment, other than part-time employment by the institution. For master's level and professional students, such period shall not exceed the normal period for completing the program, or 3 years, whichever is less, except for special circumstances. For doctoral students, such period shall not exceed 3 years, consisting of not more than two years of support for study or research, and not more than one year of support for dissertation work, except for special circumstances.

♦ **Authorization of appropriations.** $60 million is authorized for FY-93, and such sums as may be necessary for the four succeeding fiscal years.

PART C--JACOB K. JAVITS FELLOWS PROGRAM

♦ **Purpose.** The purpose is to provide fellowships for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise.

♦ **Cap on number of fellowships.** The cap on the number of fellowships that may be awarded is eliminated.

♦ **Fellowship board.** The number of members on the Jacob K. Javits Fellows Program Fellowship Board is restricted to nine individuals.

♦ **Awards.** The fellowship stipend level is set at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Institutional allowance.** The institutional allowance is set at $9,000 and provides for inflationary increases. Also, the amount of funds charged to a fellow for tuition and fees must be subtracted from the institutional allowance. Further, a fellow, who has been informed in writing that he/she has been selected as a fellow and then is subsequently notified that he/she has been withdrawn due to a finding on the earned graduate criterion, shall receive the award unless the Department becomes aware that the fellow's application fraudulently contained inaccurate information.

♦ **Authorization of appropriations.** $30 million is authorized for FY-93 and such sums as may be necessary for the four succeeding fiscal years.

PART D--GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

♦ **Purpose.** The purpose is to provide fellowship grants to academic departments and programs and other academic units of institutions of higher education to assist graduate students of superior ability who demonstrate financial need.

♦ **Maximum grant.** The maximum grant per year is raised from $500,000 to $750,000.

♦ **Institutional eligibility.** Eligibility is extended to academic departments or programs of institutions of higher education that offer programs of study leading to a graduate degree in an area of national need, provided such program has been in existence for at least four years at the time of application.

♦ **"National need" designation.** The Secretary shall establish such areas in consultation with the National Science Foundation, the National Academy of Sciences, the National Endowment for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies.

♦ **Teaching experience.** Departments are required to provide students with at least one year of supervised teaching experience.

♦ **Awards to graduate students.** The current law requirement that at least 60 percent of the funds received for the program be used for graduate student stipends is eliminated.

♦ **Fellowship stipend level.** The fellowship stipend level is set at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need. Allows institutions to supplement the stipends awarded under this part.

♦ **Institutional allowances.** Institutional allowances are increased to $9,000 for academic year 1993-94 and provides for inflationary increases.

♦ **Use for overhead.** Funds made available under this program are prohibited from being used for the general operational overhead of the academic department or program.

♦ **Authorization of appropriations.** $40 million is authorized for FY-93 and such sums as may be necessary for the four succeeding fiscal years.

PART E--FACULTY DEVELOPMENT FELLOWSHIP PROGRAM

♦ **Purpose.** A new program is created entitled, "Faculty Development Fellowship Program" to enable institutions to identify talented faculty and baccalaureate degree recipients form underrepresented groups to assist them in obtaining a doctoral degree.

♦ **Equitable distribution of funds.** The Secretary is required to ensure an equitable geographic distribution of awards, and an equitable distribution among eligible public and independent institutions of higher education.

♦ **Selection requirements.** Priority will be given to applications describing programs that provide fellowship recipients with (1) a tuition waiver; (2) a minimum $2,000 stipend OR additional financial support in conjunction with teaching or research activities that are part of such recipient's doctoral program; (3) additional financial support from non-Federal resources; (4) information emphasizing courses of study leading to the doctoral degrees in disciplines where minorities are underrepresented; and (5) information describing the steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievement of such recipient.

♦ **Fellowship level.** The fellowship level is set at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Fellowship agreement.** One year of teaching is required for each year of assistance. Repayment of all or part of the fellowship received, plus interest, is required under regulations issued by the Secretary if the teaching requirement is not met.

♦ **Authorization of appropriations.** $25 million is authorized for FY-93 and such sums as may be necessary for the four succeeding fiscal years.

PART F--ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

♦ **Program requirements.** The Secretary is required to make a grant or contract directly to the Council on Legal Education Opportunity (CLEO) to carry out a program to assist minority, low-income, or educationally disadvantaged college graduates in the legal profession.

♦ **Administrative costs.** A 6 percent cap on funds which can be used for administrative costs is established.

♦ **Services authorized.** Legal training projects under this program may provide the following services: (1) assistance and counseling in gaining admission to accredited law schools;
(2) a 6-week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies; or
(3) an academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which may include but is not limited to--(A) instruction in

reading, legal research, legal writing skills, and problem analysis; (B) academic advice and assistance in course selection; (C) advisement about financing their legal education and available student financial aid; (D) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and (E) any other activity consistent with the above which furthers the objectives of the program.

♦ **Use of funds.** The Secretary is required to cover all or part of the program costs of (1) engaging in activities as are reasonably designed to publicize the existence and availability of program funds; (2) selecting minority, low-income educationally disadvantaged individuals for training in the legal profession; (3) facilitating the entry of such individuals into law schools; (4) selecting from among all qualified applicants; (5) evaluating the quality, impact and continuing feasibility of the program; (6) providing, through the entities selected, for training designed to assist individuals chosen to successfully complete training for the legal profession; (7) paying stipends to chosen individuals for periods of preliminary training for the legal profession during which they maintain satisfactory academic progress toward the J.D. or L.L.B.; and (8) payment for the administrative activities of entities involved.

♦ **Authorization of funds.** $7 million is authorized for FY-93 and such sums as may be necessary for the four succeeding fiscal years.

PART G--LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

♦ **Purpose.** The purpose of the program is to provide assistance, through grants or contracts, to accredited law schools to continue, expand, or establish programs providing clinical law experience.

♦ **Limitation of amounts.** The annual maximum award that may be received by an institution is increased to $250,000.

♦ **Authorization.** The Law School Clinical Experience Program is authorized at $10 million for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years.

TITLE IV PROGRAM CHANGES NOT ADOPTED BY CONFEREES

Pell Grant Changes NOT ADOPTED By The Conferees
Did not accept a Senate provision that specifically provided that no current Pell Grant recipient would have their award reduced because of the addition of tuition sensitivity to the Pell Grant formula.

Dropped a Senate provision that less-than-half-time students can receive a Pell Grant only if their Expected Family Contribution is less than or equal to $200. Accepted the House provision extending eligibility to all less-than-half-time students.

SEOG Changes NOT ADOPTED By The Conferees
Drops Senate provision allowing students to receive SEOG in the first year of graduate study if the aid administrator determines that the student has exceptional need comparable to undergraduate SEOG recipients.

As stated above, in the SEOG portion of this document, the Reauthorization bill will retain the current targeting of SEOG to students who are eligible for Pell Grants. Dropped by the Conferees was a House provision eliminating the requirement that priority be given to Pell Grant recipients in awarding SEOG and allowed SEOG awarding on the basis of exceptional need as determined under Part F. Also dropped by the Conferees was a Senate provision maintaining the current Pell Grant awarding priority in the SEOG Program and adding two additional criteria that (1) require SEOG to be awarded in an amount proportionate to the amount of the Pell Grant received by the recipient, and (2) required SEOG awards to be determined without regard to the determination of a minimum student contribution or self-help amount or eligibility for assistance under other parts of Title IV, except for the Pell Grant program.

Part B Loan Changes NOT ADOPTED By The Conferees
Dropped a Senate provision that the determination of a student's workload shall be made at the time of certification and shall not be affected by subsequent changes of workload during the loan period.

Rejected a Senate provision setting overall limits for Part B (excluding PLUS Loans) and Perkins Loans at $52,000 for undergraduates and $115,000 for graduate students.

Did not include a Senate provision authorizing a lender to obtain a credit report on a Stafford, SLS, or PLUS borrower, at no cost to the borrower, who is an independent student and to require an applicant with an adverse credit history to obtain a credit-worthy co-signer or endorser.

Did not accept a House provision amending the guaranty agency agreement requiring forbearance for a borrower when he has indicated a willingness to repay, but has demonstrated present inability to do so.

Rejected a Senate provision requiring guaranty agencies to furnish information to institutions on former students who have defaulted, rather than furnishing this information only upon the request of the institution, as under current law.

Dropped a Senate provision authorizing the participation of dependent students in the SLS program if the financial aid administrator determines that the student can demonstrate the ability to repay the loan and may include obtaining a credit-worthy cosigner.

Did not accept a House provision prohibiting SLS loans to a student enrolled in a program of less than two years, unless the student is ineligible to receive a Stafford Loan. Did include the following Conference Report language: "Although the House receded to the Senate on this provision to prohibit SLS loans to students attending short-term proprietary programs (of less than two years in length), the conferees expressed concern that such students

should not be encouraged to assume student loan debt at levels beyond their ability to repay. Since student borrowers must immediately begin repaying interest on SLS loans, unlike Stafford loans for which there is an in-school interest subsidy, institutions of higher education should not encourage low-income borrowers with financial resources insufficient to meet resulting SLS interest obligations to enter into SLS loans. In no case should such students be given SLS loans if they are eligible to receive Stafford loans that meet their financial needs (i.e. cost of attendance).''

Did not accept a Senate provision requiring a full-time loan specialist at each institution which has a default rate in excess of the national average default rate of all eligible institutions or a principal amount of loans in default in any fiscal year of more than $1 million.

Rejected a House provision defining the situation wherein an institution is deemed to have ''originated'' a loan as one in which the lender delegates to the institution substantial loan-making functions or one evidenced by a written agreement between the institution and lender or one where an institution, with the lender's consent, fill out the lender's section of the loan application and sign the application as the lender's agent.

Did not accept a Senate provision renaming the term ''cohort default rate'' to ''annual default rate.''

Dropped a Senate provision reducing special allowance payments to three percent for holders with an annual cohort default rate of more than 25 percent and for holders which fail to provide the guaranty agency with information concerning the dates SLS borrowers actually enter repayment.

Did not include a Senate provision restricting the Secretary's authority to increase annual and aggregate Stafford loan limits only for graduate and professional students in narrow cases.

College Work-Study Changes NOT ADOPTED By The Conferees

Did not accept a Senate provision establishing a more specific new student mentor pilot project at 10-100 institutions. But, did accept that mentoring would be an allowable activity under Community Services.

Did not accept House provision creating a separate Community Services Learning Program in Title XI.

Did not accept a House provision mandating the Work-Study agreements between the Secretary and schools permitting institutions to devise Work-Study opportunities for study abroad students.

Perkins Loan Program Changes NOT ADOPTED By The Conferees

Rejected a Senate provision that for loans made on or after July 1, 1993 the interest rate is changed to five percent on the first four years of repayment and eight percent thereafter.

Dropped a Senate provision permitting institutions at their discretion to obtain a credit report on independent students and to use such reports to require borrowers with adverse credit histories to obtain credit worthy cosigners.

Dropped a House statutory provision allowing a $300 overaward tolerance in the Perkins Loan program. The regulatory Perkins $200 overaward provision is unchanged by this law.

PART G (General Provisions) Changes NOT ADOPTED By The Conferees

Rejected a Senate provision for mandatory adjustments under professional judgement and, consequently, the application form will not include such data elements.

BEST COPY AVAILABLE

Dropped a House provision which eliminates schools from participation in the Pell Grant Program that are terminated from the Part B loan program because of high default rates.

Did not accept a House provision requiring all vocational programs of less than two years to be measured in clock hours unless the programs are acceptable for credit in a two- or four-year program at the institution.

Rejected a House provision eliminating Title IV eligibility for specified periods of time for students convicted of drug-related offenses. Eligibility may be reinstated prior to the period of time established in the law for first-time offenders who satisfactorily complete a drug rehabilitation program.

Rejected a House provision protecting lenders, holders, guaranty agencies and the Secretary from any claim or defense based upon a school's actions or inactions unless the institution is a lender or there is an origination relationship between the institution and the lender. This provision would have provided protection in law suits similar to the recent Tipton decision.

Refused to accept a House provision removing the requirement that an institution attempt to provide exit interview information in writing to students who leave the school without the institution's prior knowledge.

Dropped a Senate provision limiting the total loan volume of new institutions to $1 million in the first year of participation and to 150 percent of the previous year's total loan volume in the 2nd, 3rd, and 4th years of participation.

Rejected a Senate provision requiring institutions to comply with such other provisions as the Secretary deems necessary to the sound administration of financial aid programs.

Refused to accept a House provision requiring institutions to provide the Secretary with information on Pell and Work-Study students.

Dropped a Senate provision setting forth anti-hazing policies as part of program participation agreements.

Did not enact a Senate provision requiring the funds collected through imposition of criminal penalties be assigned to the Pell Grant Program.

Did not accept a House provision specifying that at least three members of the Advisory Committee on Student Financial Assistance must be financial aid administrators--one appointee each from the House, Senate and Administration.

Rejected a House provision providing regulatory relief for institutions that meet high performance standards.